

**Subcommittee on water**

Chair: Julie Carter (AZ)

Vice-Chair: Bob Caccese (PA)

Tuesday, March 11

1:15pm – 3:15pm

90th North American Wildlife and Natural Resources Conference

Louisville, Kentucky

**Virtual Pre-Meeting Recap – *Julie Carter (AZ)***

* The Subcommittee on Water held a virtual pre-meeting on March 3 for those unable to travel to the North American.
* The virtual pre-meetings continue to have good attendance, highlighting the importance of continuing to offer these.
* The subcommittee first received a Government Affairs update, during which there was discussion on recently introduced legislation including the Water Rights Protection Act and the Aquifer Recharge Flexibility Act.
  + Water Rights Protection Act would prevent the Secretary of Interior from asserting a connection between surface water and groundwater.
  + Aquifer Recharge Flexibility Act would waive NEPA for aquifer recharge projects that use existing rights of way by declaring these projects not federal actions. This would remove the opportunity for the public to engage and provide input.
* The Government Affairs Update also included discussion of recent and further anticipated cuts to the federal workforce, as well as topical Executive Orders.
* Members are asked to provide details of any impacts they are experiencing to AFWA. SOW members also highlighted GSA’s cancellation of many leases, including sites used for USGS water monitoring.
* Update from the Interstate Council on Water Policy- ICWP broadly focuses on integrated water management issues but is planning to place more of a focus on drought in the coming year. The organization will also be looking to expand water resource planning into new federal channels, such as the Department of Transportation.
* Roundtable discussion focused on SOW’s role within AFWA and how it can be more responsive to proposed changes that could impact states’ water quality/quantity/ability to manage water resources. The use of nimble, ad hoc working groups was proposed a potential option. The subcommittee should also remind FWRPC that it is available for advice on all water-related matters.
* USFWS has a new water resources strategic plan which will be shared with the committee. Finalized in August, the plan focuses mainly on wildlife refuges because these are the lands the service actively manages.

**Government Affairs Update – *Ali Schwaab (AFWA)***

Recap of End of 118th Congress

* Water Resources Development Act 2024 (WRDA) agreement
  + The bipartisan, bicameral Water Resources Development Act (WRDA) (S 4367) was signed into law by President Biden on January 4, 2025, following passage by the Senate on December 18 in a vote of 97-1. The bill previously passed the House on December 10 in a vote of 399-18.
  + While we did not get the project partnership agreement (PPA) reform we had hoped for, the legislation does include language requiring a GAO study on project lifespans and the indemnification clause in PPAs.
  + The bill also extends some important aquatic invasive species programs, including the Asian Carp Prevention and Control Pilot Program, the Invasive Species in Alpine Lakes Pilot Program. Section 1361 reduces the non-federal cost share of watercraft inspection and decontamination stations in specific basins from 50 percent to 35 percent.
  + Additionally, section 1107 increases funding authorizations for the USACE’s continuing authorities program, which includes aquatic habitat ecosystem restoration projects.  Drought resilience projects are now included, and the non-federal cost share of construction for projects that benefit anadromous fish habitat and passage has been reduced from 35% to 15%.
  + On the subject of WRDA: The Office of the Assistant Secretary of the Army for Civil Works (OASA(CW)) is seeking public comment on any provisions in the Thomas R. Carper Water Resources Development Act (WRDA) of 2024. The OASA(CW) will consider all comments received during the 60-day public comment period in the development and issuance of guidance to implement WRDA 2024. **Comments are due April 28, 2025. Stakeholder sessions will be held on March 12, 26, and April 9.**
* America’s Conservation Enhancement (ACE) Reauthorization Act
  + On December 23rd, the America’s Conservation Enhancement Reauthorization Act (ACE Act) was signed into law by President Biden.
  + The full Senate passed the bill by unanimous consent on December 18. Earlier in the month the Act overwhelmingly passed through the House with bipartisan support.
  + Passage of the ACE Act ensures the continuation of some of the nation’s most successful conservation programs, including the National Fish Habitat Partnership (NFHP).
* Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024:
  + On December 17, the President signed the AFWA-endorsed Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 into law.
  + The bill requires the EPA to establish a Good Samaritan pilot program, under which the EPA may issue up to 15 permits to allow Good Samaritans to remediate historic mine residue at abandoned hardrock mine sites to protect human health and the environment without being subject to enforcement or liability under specified environmental laws for past, present, or future releases, threats of releases, or discharges of hazardous substances or other contaminants at or from the abandoned mine site.
  + In addition, the bill establishes a Good Samaritan Mine Remediation Fund, to receive proceeds from the sale or use of recovered materials during remediation, for land management agencies that authorize Good Samaritans to conduct remediation projects on federal land.

119th Congress

* Federal Budget
  + Still no FY25 appropriations bills and CR expires March 14
  + at this point we are hearing that a full-year CR with some anomalies is the likely outcome.
  + Democrats, whose votes would be needed to get past the 60-vote hurdle in the Senate, haven't participated in any long-term CR negotiations to this point.
  + also possibility of a government shutdown
  + FY26 Budget: Without clarity on the FY25 budget, it is still time to kick off the annual FY26 budget process
  + AFWA Water-related budget priorities:
    - USGS Water Resources
      * Groundwater and streamflow Information Program
      * Federal priority stream gages
      * Stream gage support
      * Next gen water observing system
      * National water quality program
      * Harmful algal bloom research
    - EPA
      * Clean Water State Revolving Loan Fund
* Legislative (T&I, EPW, HNR)
  + Permitting Reform a common theme already- focus is on identifying process improvements that can be made to make federal environmental reviews and permitting more efficient and timely, while also providing more certainty to industry…
    - House Transportation and Infrastructure’s subcommittee on Water Resources and the Environment held a [hearing on Clean Water Act permitting and project delivery](https://transportation.house.gov/calendar/eventsingle.aspx?EventID=408197).
    - Recall, AFWA previously signed onto a letter to the Assistant Administrator of EPA’s Office of Water, along with the Western Governors’ Association, National Conference of State Legislators, Western States Water Council, and others, after learning the Environmental Protection Agency’s (EPA) Office of Water was considering regulatory action related to the interpretation of state statutory authority under Clean Water Act (CWA) Section 401.
    - While the subcommittee’s hearing appeared to place great emphasis on cooperative federalism and state rights with respect to implementation of the Clean Water Act, it did also focus on the need for faster permitting and greater regulatory certainty to facilitate economic development. We will continue to monitor these permitting discussions to ensure that any suggested reforms do not impinge on state 401 authorities.
      * WSWC submitted testimony to the committee highlighting States’ responsible implementation of Clean Water Act (CWA) Section 401 and cautioned against frequent policy changes, which “create uncertainty for co-regulators and the regulated community, often leading to unreliable results, indecision, inconsistency, and lawsuits.”
      * Also emphasized the need for better communication between federal and state agencies and the importance of cooperative federalism in defining Waters of the United States
    - Senate EPW Federal Environmental Review and Permitting Processes hearing- discussion of expanding categorical exclusions under NEPA, eliminating redundant reviews, reforming judicial review of agency actions and limiting legal challenges. also discussed compensatory mitigation banks.
    - On subject of permitting reform- TRCP leading a working group on to identify/propose amendments to NEPA that would benefit conservation community- i.e. categorical exclusions for aquatic/stream restoration activities
  + Bills
    - S93- Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2025
      * Introduced by Senator Sullivan (R-AK), this bill seeks to reauthorize the original HABHRCA of 1998 and strengthen the HABHRCA program to improve monitoring, forecasting, and responses to harmful algal blooms and hypoxia, which can significantly impact the health of marine ecosystems, fisheries, human health, and local economies.
      * The bill text includes provisions to improve coordination with states and tribes. The House companion bill ([HR644](https://url.us.m.mimecastprotect.com/s/9pvDCPNEjPIPZBEi6tGTxHJ2v?domain=vr4zo6cab.cc.rs6.net)) was introduced January 23 and has been referred to committee.
    - House Natural Resources Committee held markup on February 12, 2025, during which it approved several water related bills:
    - HR302-  Water Rights Protection Act
      * Previously introduced in the 118th congress
      * Aims to protect private water rights by prohibiting the Interior and Agriculture departments from mandating water users transfer water rights to the U.S. as a condition of any federal permit, license or other land use agreement
      * Requires secretaries recognize state water law and coordinate with states to ensure any rule, policy, directive, management plan, or similar Federal action is consistent with state water law
      * Savings clause specifies that nothing in the bill would affect the implementation of the Endangered Species Act.
      * Reported favorably by committee on a vote of 22-16 (22 Rs in favor, 16 Ds opposed)
    - HR 231
      * reauthorize Colorado River System conservation pilot program through FY26
      * approved in an en bloc vote by UC
    - HR 1001
      * would direct the Interior and Energy departments, in consultation with the Glen Canyon Dam Adaptive Management Working Group, to enter into a memorandum of understanding to explore and address the potential impact the July 2024 supplement to the December 2016 record of decision related to the management of nonnative fish in the Colorado River below the Glen Canyon Dam would have on the Upper Colorado River Basin Fund.
      * include the creation of a plan, to examine the effects the record of decision may have on fund obligations; address the impact that the record of decision has on hydropower production at Glen Canyon Dam; and identify impacts the record of decision has had on species protected under the 1973 Endangered Species Act.
      * Approved in en bloc vote by UC

Administration

* Cuts to Federal Workforce
  + Probationary layoffs, now planning for large reductions in force across many federal agencies.
  + delays and service delivery interruptions are to be expected. This includes the administration of Federal grants.
  + AFWA particularly concerned about impacts on USGS CRUs, which are likely to realize at least a 30% loss in positions
  + We are documenting impacts to SFWAs, please share your experiences with the AFWA GA team if you have an examples of how these cuts of impacted your work.
* EO’s
  + Freeze on grants
    - On January 27 the Office of Management and Budget (OMB) issued a memo that proposed to freeze or pause federal grants. Federal agencies were instructed to conduct a review to determine whether federal loan and grant programs are impacted by wave of executive orders signed during President Trump’s first week in office.
    - A number of lawsuits followed
    - The broadbrush freeze is now lifted and funds should be moving. The only grant programs still experiencing a freeze are those funded through the IRA.
    - If you are hearing form partners or staff that there are still concerns or delays with specific federal funding programs at the state level, please let us know.
  + E.O. 14154- Unleashing American Energy
    - President Trump has issued an Executive Order to revoke President Carter’s executive order that led to the establishment of the Council on Environmental Quality’s NEPA regulations and directed CEQ to convene a working group to coordinate revision of agency-level regulations with the goal of expediting permitting approvals.
    - On February 19, the Council on Environmental Quality (CEQ) issued a pre-publication notice for an interim final rule to remove its regulations implementing the National Environmental Policy Act (NEPA). The rule will remove all iterations of CEQ’s NEPA implementing regulations.

**Instream Flow Council Update – *Christopher Estes, AFWA Life Member***

* National Center for Ecologically Sustainable Water Conservation and Management
  + Thank you to SOW and FWRPC for endorsement
  + Now can get AFWA’s technical support formally
  + Center update: Monthly updates are posted on IFC website. Began RFI&Q process and received interest from 9 applicants. Then held informational webinar. 6 have applied to host center, 3 to be partner affiliates. No cap on affiliates.
  + RFP circulated last Friday- next stage. Deadline for applicants is April 15.
  + In mid-June, applicants will be notified if they qualified. Then short list created and interviews will be held- onsite facilities tour, etc.
  + Steering committee- 10 people, subgroup-governing council.
  + Trying to get more endorsements to show interest to potential funders
  + Article in Fisheries to be published in late spring/early summer on the center
  + Stakeholders for centers- not just ecologically oriented, also anthropogenic. Open to private, governmental sectors, etc. People who are involved in making allocation decisions, but also those impacted.
* Other IFC updates- biannual meeting next year in 2026, NY
* inal reminder- IFC has formal relationship with AFWA to provide scientific and technical assistance on policy issues on recommendation basis

**Roundtable on State Water Quantity and Quality Issues *– All***

* AZ: no snowpack, forests closing to the public early because very dry. Had forest fire near hatchery in December. Two hatcheries at higher elevation forested areas are very impact by lo spring flows, making incremental reductions in biomass. Affects number of fish we stock and will have to buy fish from vendors to deal with. Habitat restoration projects planned on Apache trout streams, projects all frozen because BIL/IRA funds. Trying to find alternative funding scenarios.
* MO: dry, hatcheries at this point are ok. 2 run off lake water sources. Prioritizing lakes for restoration- on impaired waters list. Wetlands to improve water quality, looking at different designs. Excited here that might go.
* AFS: Convos about updating fish kill handbook. Values of mussels. Possibly explore MSCGP in 2026.
* IA: hydropower facility red rock dam went live in 2020, pushing limit on what they can do. Trying to get them to comply with FERC licensing. Suspended peaking in winter.
* SC: have had wildfires in feb and mar, bizarre.
* WI: had grass fires in jan hen there should be snow. Hydropower- just went through relicensing with a facility; state water quality eliminated flow requirements, etc. have 26 facilities up for relicensing, so need to work on this. PFAS- rural spots with highest levels, do not eat warnings. Finding PFAS in ducks too.
* AR:S82 legislation to prohibit moratorium on issuance of permits for KFOs in sensitive watersheds. Lake renovations- Missouri has general permit for this, Arkansas thinking of doing same thing. FWCA- as CWA and NEPA protections fall away, FWCA is a tool we still have. Use to engage with fed review of water dev projects, pull in other groups. KY: introduced S 89- definition of waters of the commonwealth. Bill wants to tie definition to WOTUS…
* ID: growing appetite for aquifer recharge, means other bodies don’t recharge. Lake won’t recharge, bass fishery may go away. Hatcheries that run on spring water now have phosphorus levels higher in intake that is higher than what they are permitted to discharge. $200M to address deferred maintenance on Lower Snake …documents sitting on desks at BPA.
* CO: northern part had average snowpack; san juan/rio grande watersheds not so good (60%). Quagga mussels detected near grand junction- highline reservoir.CO owns, so will drain and then refill. Also, some veliger detections in Colorado river, but haven’t had any more detections since. Voluntary inspections for rafts, lots of education. Lots of water projects in CO, tracking and trying to get mitigation funds for any that impact natural resources. Last session- bill to address dredge and fill, state will cover intermittent and ephemeral streams with a permit system. As WOTUS changes, state will take over those permits.
* MT: PERC doing more and more work around water. In MT legislature, PERC helping with coalition of NGOs to pass pro-conservation legislation. 73 bills in MT leg that actively tracking, heavy water focus this session. Interested in concept of NGOs being able to lease water from leaseholders to keep waters in water bodies. Seeing more and more drought in MT. Deploy private dollars to address shared issue. Work with landowners when they have excess water to put back in- works very well in UT.
* NC: flooding, then a drought throughout whole state. Streams will be exposed, shallower due to effects of Helene. Lots of change in mountain region. Deal with PFAS- find in high doses.
* EO- people over fish (Sacramento)- heard this could be extended to other parts of country (GLs, etc)