

May 15, 2026

Lieutenant General William H. “Butch” Graham, Jr.
U.S. Army Corps of Engineers
Attn: CECW-CO-R
441 G Street NW
Washington, D.C. 20314

Submitted electronically via: <https://www.regulations.gov>

RE: U.S. Army Corps of Engineers: Notice of Solicitation of Input on Potential Future Changes to Nationwide Permits—Docket ID No. COE-2026-0001

Dear Lieutenant General Graham:

The Association of California Water Agencies (ACWA) respectfully submits comments regarding the U.S. Army Corps of Engineers (USACE) notice regarding its Nationwide Permit (NWP) Program.¹ ACWA appreciates USACE’s efforts towards more efficient permitting for water infrastructure projects and encourages these activities be regulated in manners that do not adversely impact water quality, supply, and affordability.

ACWA is the largest statewide coalition of public water agencies in the United States. ACWA represents approximately 470 member agencies that are responsible for delivering about 90 percent of the water to communities, farms, and businesses in California. ACWA represents water management entities in every sector of water supply, including municipal and agricultural water, water recycling, water reuse, wastewater management, and stormwater management. ACWA and its members are dedicated to providing a high-quality, reliable water supply in an environmentally sustainable and fiscally responsible manner.

USACE is an important federal partner to ACWA member agencies and other water providers. Across the United States, 136 USACE reservoirs provide municipal and industrial water supply, and 46 reservoirs provide irrigation water supply.² As stewards of water resources, ACWA member agencies often rely on NWPs to implement maintenance, construction, restoration, and resilience projects efficiently and in compliance with federal, state, and local laws.

ACWA recognizes the importance of USACE’s NWPs as a tool for authorizing activities that are essential to water supply reliability, infrastructure improvements, flood risk management, groundwater recharge, and stream and wetland restoration. Therefore, ACWA supports USACE

¹ *Notice of Solicitation of Input on Potential Future Changes to Nationwide Permits; Establishment of a Public Docket; Request for Input*, 91 Fed. Reg. 12591 (March 16, 2026). https://www.govinfo.gov/content/pkg/FR-2026-03-16/pdf/2026-05051.pdf?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

² U.S. Army Corps of Engineers Institute for Water Resources: 2014 Municipal, Industrial and Irrigation Water Supply Database Report. Aug. 2015. https://www.iwr.usace.army.mil/Portals/70/docs/iwrreports/2015-R-02_Municipal_Industrial_and_Irrigation_Water_Supply_Database_Report.pdf.

measures to streamline authorization for projects that serve critical public water management functions.

In response to USACE questions to develop a more efficient NWP program, ACWA offers the following considerations.

I. Measures to Eliminate Unnecessary Review Over Jurisdictional Activities

NWP activities occur in various water landscapes and regional conditions that exist nationwide, especially in California. This poses unique water-related challenges regarding drought, flooding, pollution, endangered species, and more. To tailor to regional conditions and the needs of a state, USACE's NWP approach utilizes its 8 division offices with assistance from its 39 district offices. USACE's continued regional collaboration, with reliance on state and local regulatory programs, is an important factor to help streamline processes and develop a more efficient NWP. ACWA recommends any potential variability among USACE regional conditions be implemented in a way that avoids uncertainty and inefficiency, especially in the review over NWP jurisdictional activities.

II. Measures to Improve or Maintain Efficiency in the Review of Pre-Construction Notifications or Issuance of NWP Verifications

Frequent communication between the USACE regulatory project manager and the non-federal applicant is key to successful, efficient regulatory action, including throughout the Pre-Construction Notice (PCN) process. However, USACE is often overwhelmed by the many regulatory actions in play that effective communication is overlooked. This generally causes non-federal applicants to not receive status updates and wait prolonged amounts of time—sometimes years—for permits to be processed. ACWA encourages USACE to communicate more actively with partners, interested parties, and sponsors to aid in timely and efficient agency decisions.

Reducing regulatory barriers like prolonged or duplicative reviews can expedite water infrastructure activities with minimal adverse impacts on the aquatic environment. For example, USACE must verify PCNs for many water infrastructure projects before the NWP activity can commence.³ This includes for returning, experienced applicants even if USACE approved similar projects previously. The standard PCN review and approval time is within 45 days, or longer. ACWA urges USACE to enforce a maximum 45-day timeline, and when feasible accelerated PCN approval.

ACWA also recommends USACE continue to use its standardized PCN form. This serves as a consistent applicant form and verification document for USACE to reduce administrative burden for both applicants and regulators to maintain efficiency through the PCN process. This will aid an efficient permitting process for critical NWP water resource activities.

Additionally, ACWA notes certain NWPs (e.g. NWP 60 regarding activities related to fish passage) may require consultation with other federal agencies as listed species or critical habitat under the Endangered Species Act (ESA) may be affected. USACE consultation with the U.S. Fish

³ U.S. Army Corps of Engineers: *Summary of the 2026 Nationwide Permits*. January 8, 2026. <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll9/id/3211>.

and Wildfire Service (USFWS) or the National Marine Fisheries Service (NMFS) (also known as NOAA Fisheries) may therefore be required pursuant to ESA Section 7.⁴ While ACWA supports federal interagency coordination to facilitate project approvals, ESA requirements may counter USACE intentions to accelerate NWP activities. To ensure efficient NWP procedures aligned with ESA requirements, USACE should continue to encourage and practice pre-application consultation with federal agencies in early planning phases, especially for large or complex project.

III. Categories of Activities Similar in Nature for Establishing New NWPs

In accordance with the Clean Water Act, USACE generally evaluates NWPs on a five-year cycle. This includes whether to establish new NWPs as well as consolidate or clarify existing NWPs to better reflect current practices. ACWA believes establishing new NWPs to increase authorized activities would streamline permitting processes and reduce permitting burdens experienced by some ACWA member agencies and other public agencies, utilities, tribes, and organizations.

When establishing new NWPs, USACE should consider categories of activities that improve water resources that simultaneously support local communities, enhance economic growth, and safeguard public health. Expanded NWPs for water infrastructure projects are essential to help achieve water supply and quality standards, mitigate drought resilience and weather variability impacts, and ensure compliance with regulations and other legal requirements.

NWPs often used by water utilities pertain to water conveyance systems, groundwater recharge and storage infrastructure, recycled water and potable reuse systems, stormwater and flood control projects, and habitat restoration and fish passage enhancements. Specific NWPs include:

- NWP 17 Hydropower Projects
- NWP 18 Minor Discharges
- NWP 31 Maintenance of Existing Flood Control Facilities
- NWP 37 Emergency Watershed Protection and Rehabilitation
- NWP 38 Cleanup of Hazardous and Toxic Waste
- NWP 40 Agricultural Activities
- NWP 46 Discharges in Ditches
- NWP 52 Water-Based Renewable Energy Generation Pilot Projects
- NWP 57 Electric Utility Line and Telecommunications Activities
- NWP 58 Utility Line Activities for Water and Other Substances
- NWP 59 Water Reclamation and Reuse Facilities
- NWP 60 Activities to Improve Passage of Fish and Other Aquatic Organisms

IV. Measures to Ensure Discharges of Dredged or Fill Material into Waters of the United States would Cause no More than Minimal Adverse Environmental Affects

ACWA members are committed to protecting aquatic resources while implementing critical water infrastructure enhancement projects through NWPs. ACWA also understands the complexity of

⁴ U.S. Fish & Wildlife Service: *ESA Section 7 Consultation*. <https://www.fws.gov/service/esa-section-7-consultation>.

balancing these measures to ensure compliance with the Clean Water Act and regulations like Waters of the United States (WOTUS). Since USACE's NWP program has long achieved balance between regulatory efficiency and environmental protection, ACWA recommends USACE build on this framework by improving NWP procedures.

To ensure certain discharges like dredged or fill materials will not cause significant adverse environmental impacts, ACWA encourages USACE to more closely collaborate with water utilities and state, local, and tribal leaders throughout the NWP process. This includes prior to renewing, modifying, and establishing new NWPs. Additionally, USACE should ensure continued joint efforts with U.S. Environmental Agency (EPA) officials and other water industry experts like ACWA member agencies to confirm NWPs are properly following final WOTUS regulations once effective.⁵ As water utilities like ACWA members are and will be impacted by USACE regulations, their engagement in these and related efforts is essential.

Additionally, NWP 59, Water Reclamation and Reuse Facilities, authorizes activities for discharges of dredged or fill material into non-tidal waters of the United States (e.g. ephemeral pools, freshwater marshes, and forested swamps) that do not cause the loss of more than ½ acre.⁶ NWP 59 can improve water quality as it accelerates activities that allow water to be treated and reused for beneficial purposes like agriculture and irrigation, potable water supplies, and groundwater replenishment. However, USACE's decision to reissue NWP 59 without removing the ½ acre limitation in the 2026 final rule⁷ continues to severely limit the practical use of NWP 59 since most eligible reuse and recharge projects are more than ½ acre in order to provide sufficient benefits. These beneficial projects are distinct from other land development focused NWPs that contain a ½ acre limitation (e.g., NWP 29 Residential Developments, NWP 39 Commercial and Institutional Developments, and NWP 40 Agricultural Activities). ACWA therefore urges USACE to remove the ½ acre limitation for NWP 59 and, at a minimum, expand the acreage limitation to one acre or more in any future rulemakings.

Removing the ½ acre limit on the nationwide permit for water reclamation and reuse projects would advance the administration's direction to identify and remove regulatory hurdles to Western water projects and maximize water availability in Southern California.⁸ It would also advance USACE initiatives to "build infrastructure, not paperwork"⁹ as well as goals of the

⁵ A final rule is pending following public comment on the proposed rule. See Updated Definition of "Waters of the United States", 90 Fed. Reg. 52498 (November 20, 2025). <https://www.govinfo.gov/content/pkg/FR-2025-11-20/pdf/2025-20402.pdf>.

⁶ U.S. Army Corps of Engineers: *Nationwide Permit 59 - Water Reclamation and Reuse Facilities Effective Date: February 25, 2022; Expiration Date: March 14, 2026 (NWP Final Notice, 86 FR 73522)*. https://www.swt.usace.army.mil/Portals/41/docs/missions/regulatory/2021%20NWP/NWP-59.pdf?ver=ICsGa0Q9Jh_CwVd5xxfJEA%3D%3D.

⁷ *Reissuance and Modification of Nationwide Permits*, 91 Fed. Reg. 768 (January 8, 2026). <https://www.govinfo.gov/content/pkg/FR-2026-01-08/pdf/2026-00121.pdf>.

⁸ Executive Order 14181: *Emergency Measures to Provide Water Resources in California and Improve Disaster Response in Certain Areas* (January 24, 2025). <https://www.govinfo.gov/content/pkg/FR-2025-01-31/pdf/2025-02174.pdf>.

⁹ U.S. Army Corps of Engineers: *Assistant Secretary of the Army for Civil Works announces 'Building Infrastructure, Not Paperwork' initiative for the Army's Civil Works program* (February 23, 2026). <https://www.usace.army.mil/Media/News-Releases/News-Release-Article-View/Article/4412430/assistant-secretary-of-the-army-for-civil-works-announces-building-infrastructure/>.

administration's Water Reuse Action Plan 2.0 to unleash the power of water reuse to spur economic growth, support public health, and strengthen water resources.¹⁰

V. Measures to Develop NWP, Terms, General Conditions, or Processes for the Transportation and Disposal of Dredged Material into Ocean Waters

ACWA members routinely conduct dredging and sediment management activities necessary to maintain and improve water supply infrastructure including irrigation channels, reservoirs, and conveyance systems. ACWA therefore understands the importance for appropriate disposal of dredged material through USACE's NWP program.

Similarly discussed above, ACWA encourages USACE to actively work with water utilities and state, local, and tribal leaders to ensure proper procedures are being followed on the transportation and disposal of dredged material into ocean waters. Also, since ocean disposal of dredged material can be subject to statutory requirements like the Marine Protection, Research, and Sanctuaries Act (MPRSA) (also known as the Ocean Dumping Act), USACE should ensure continued joint efforts with overseeing officials from EPA and the United States Coast Guard to efficiently and effectively manage the transportation and disposal of dredged material into ocean waters.

VI. Measures to Improve Existing Regulations regarding General Permits or the Implementation of the NWP Program

ACWA reemphasizes that NWPs can benefit water and water-related resources by expediting projects that may have been delayed due to other permitting process requirements. In implementing NWPs, ACWA urges USACE to do so in a manner that promotes clear and consistent permitting standards for ACWA member agencies and other water managers. Certainty throughout the NWP process can promote efficient water planning to effectively manage critical water infrastructure. This includes consistent interpretation and application of NWPs across all USACE districts and divisions. As mentioned above, California has a wide range of water landscapes within the state, but water landscapes differ nationwide. To avoid varying interpretations between USACE divisions and districts in NWP processing, USACE should issue guidance and provide training opportunities for agency staff regardless of geographic location.

When implementing NWPs, ACWA also urges USACE to ensure it does not add unnecessary costs to water infrastructure projects or unnecessarily delay the permitting process.

A strong and capable USACE workforce is the foundation of an effective Nationwide Permit Program. ACWA recognizes the importance of efficient federal operations. However, ACWA is concerned that the administration's reduction of USACE personnel could create challenges for water providers and others in the regulated community. The loss of experienced USACE staff will undoubtedly diminish technical expertise, knowledge of ongoing projects, local conditions, and historical permitting precedents that will lead to inefficiencies for both applicants and remaining agency staff. Public water agencies like ACWA's members must still comply with water supply and quality, drought preparedness, and habitat restoration requirements, many of which depend on

¹⁰ U.S. Environmental Protection Agency: *Water Reuse Action Plan 2.0—Multiplying Water Benefits, Maximizing American Prosperity* (April 16, 2026). <https://www.epa.gov/system/files/documents/2026-04/wrap-2.0-booklet.pdf>.

timely federal authorization. Additionally, ACWA member agencies are already susceptible to permitting delays that could worsen with USACE staffing cuts; a decrease in USACE personnel can result in longer NWP review times and uncertainty in project planning that undermine the NWP Program's purpose of a streamlined pathway for activities with minimal environmental impacts. As infrastructure projects to provide water resilience and restoration projects increase so will the demand on USACE staff. ACWA strongly encourages USACE to prioritize workforce retention and fill vacancies to limit backlogs and ensure timely processing of NWPs, especially in high-volume states like California.

VII. Conclusion

ACWA thanks USACE for its efforts to establish a more efficient Nationwide Permit program. Please let us know if there are further opportunities for ACWA to collaborate on NWP efforts or if we can provide additional information and resources. If you have any questions or would like to follow up on this matter, please contact ACWA Federal Relations Representative, Caleb Raspler, at calebr@acwa.com or (202) 434 - 4762.

Respectfully,

A handwritten signature in black ink, appearing to be "C. Raspler". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Caleb Raspler
Federal Relations Representative
Association of California Water Agencies