



# TWCA FEDERAL PRIORITIES - 2024



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# Introduction to TWCA

The Texas Water Conservation Association (TWCA) is a nonprofit policy association for the Texas water industry, focusing on water supply and management. From drought to flood, TWCA works with its members to address the state's greatest water needs. Created in 1944 when the term conservation was synonymous with water

supply, TWCA has been dedicated to the state's water resources for 80 years.

## VISION

To be a trusted resource promoting sound water policy for Texas.

## MISSION

### BUILD



We build consensus within our membership through committees. A broad group of stakeholders participate, adding important input to the TWCA policy process.

### EDUCATE



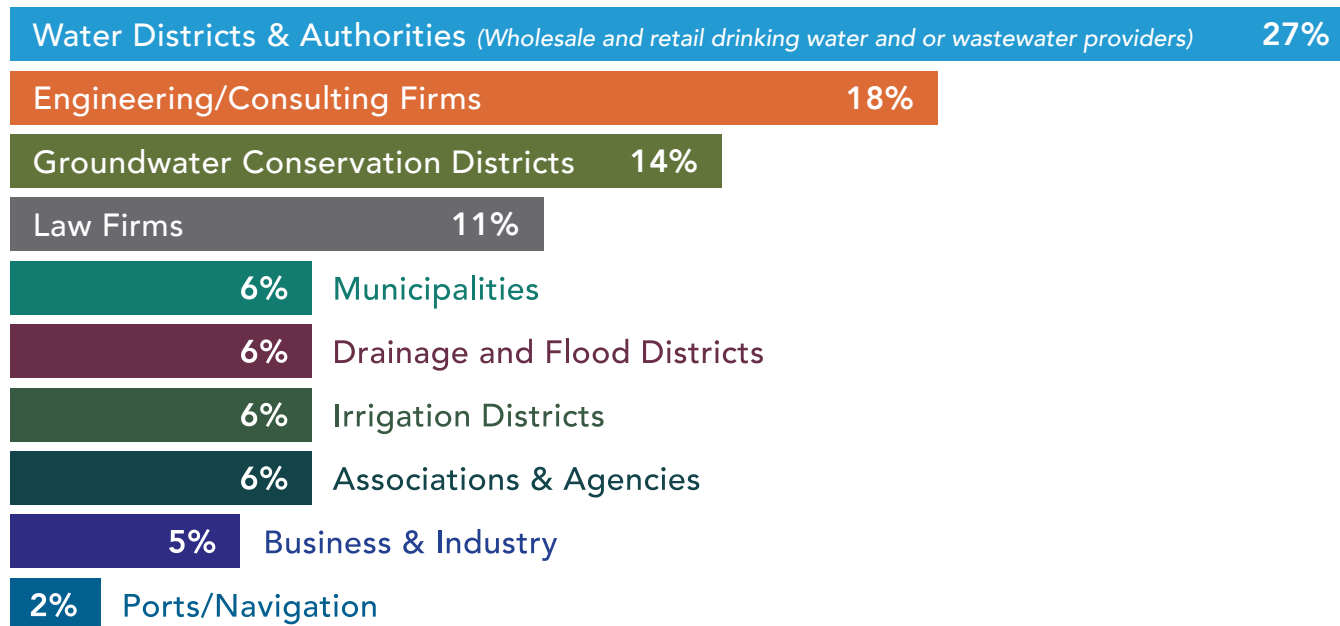
We educate our members and policymakers about important Texas water policy issues that impact water management and supply.

### ADVOCATE



We advocate on behalf of our members at the state and federal levels to ensure that sound water management in Texas remains a priority.

## MEMBERSHIP BREAKOUT 2024



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## INTRODUCTION

In 1924, an unknown state meteorologist described Texas as a “land of perennial drought broken by the occasional devastating flood.” Balancing needs of seemingly opposing forces is a hallmark of Texas’ water success. From the state’s innovative “bottom-up” consensus-driven approach to water supply planning to its newly created flood planning process and extensive funding mechanisms for flood and drought and everything in between, Texas is a national leader on water issues. As Texas water professionals focusing on promoting sound water policy for this state, we are committed to the availability of safe, secure, and sustainable water to meet our state’s diverse and growing demands.

TWCA members are responsible for the state’s water supply and development and provide water and wastewater services to the vast majority of Texans. Our members represent river authorities and regional water districts, municipalities, navigation and flood control districts, drainage and irrigation districts, utility districts, groundwater conservation districts, all kinds of water users, and general/environmental water interests. They include water managers, lawyers, engineers, scientists, community planners, association professionals, and others interested in the State’s water needs.

Meeting Texas’ water resource needs is of critical importance to the economic success of both Texas and the U.S. This document outlines TWCA’s top federal water issues, based on a set of overarching principles that guide our outreach on federal water resources legislation and policy.

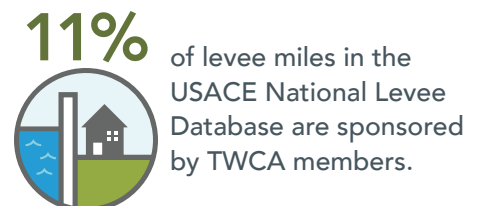
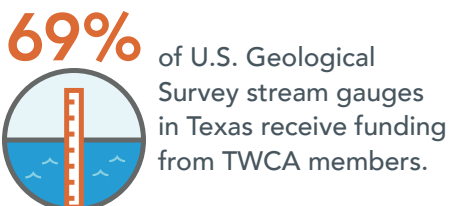
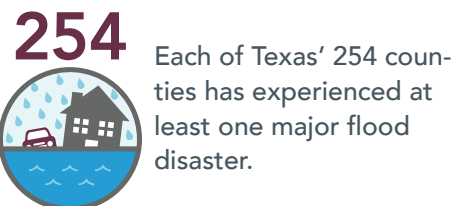
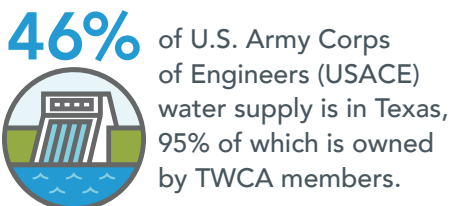
## TWCA Federal Policy Guiding Principles

TWCA values the following overarching principles in federal water resources legislation and policy:

1. State Primacy Over Water Resources
2. Clear, Consistent, Predictable, and Economical Federal Regulation
3. Partnership and Shared Investment in Federal Policy Development & Initiatives
4. Science, Transparency, and Public Participation
5. Intergovernmental Coordination with States, Tribes, and Local Project Sponsors

TWCA also consistently advocates for streamlining permitting processes to reduce administrative barriers and allow water project evaluation to progress in an efficient manner that effectively uses public funds. In addition to the priority issues outlined below, other issues that TWCA continues to monitor include invasive species, restrictions on interstate water transfers and the USACE Water Supply Rule.

You can find more information on TWCA’s Federal Priorities at [www.twca.org/federalaffairs](http://www.twca.org/federalaffairs).



### Regulation of Per- and Polyfluoroalkyl Substances (PFAS)

Growing concerns over PFAS contamination, and the resulting public health effects, are driving new regulatory requirements that may affect water and wastewater management. Setting treatment standards outside of a data-driven process could adversely affect water and wastewater management in Texas and nationwide. Holding water and wastewater systems -- who are passive receivers of contaminated material -- legally and financially responsible under the *Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)* for a third-party polluter's actions would result in staggering financial liability to utilities if Congress does not act.

#### REQUESTS OF CONGRESS:

- Exempt water and wastewater utilities from PFAS liability under CERCLA except when utilities have released the chemicals as a result of gross negligence or willful conduct.
- Refrain from enacting legislation to regulate PFAS. Continue to defer to the Environmental Protection Agency's (EPA's) technical expertise in establishing PFAS regulations using its regulatory stakeholder process.
- Fund PFAS clean-up. Provide funding to water and wastewater utilities to specifically address PFAS contamination in water, wastewater, and biosolids.
- Fund PFAS research. Fund research on: (1) health effects data on PFAS that pose a human health risk; (2) analytical methods to measure levels of PFAS in environmental samples; and (3) technologies to cost-effectively remove problematic PFAS from drinking water and wastewater to address public health concerns.

#### REQUESTS OF EPA:

- Improve monitoring and research of PFAS.
- Utilize national science for establishing risk-based PFAS standards.
- Provide guidance regarding how to communicate the presence of low levels of PFAS in drinking water, wastewater, and biosolids.
- Identify wastewater influent categories where PFAS would reasonably be suspected.



### Decreasing State Revolving Fund Allocations

Clean Water and Drinking Water State Revolving Funds (SRFs) are federally subsidized, state-run loan programs for water, wastewater, and stormwater infrastructure. SRFs provide affordable financing for local political subdivisions, especially small, rural, and disadvantaged communities that struggle to access financing in the private sector or bond market. The proposed U.S. House of Representatives 2024 budget diverts 88% of annual federal funding from SRF subsidized loans to one-time grants, including congressionally directed spending. Compared to 2021 funding levels, SRF allocations to Texas would be cut by 96%. SRF programs in Texas are more than 7x oversubscribed, making the on-the-ground impact to Texas utilities even greater.

#### REQUESTS OF CONGRESS:

- Fund congressionally directed project spending in addition to, and not in lieu of, SRF funding by using other sources of funding. For example, EPA's Emerging Contaminants in Small or Disadvantaged Communities could be a source of funding for congressionally directed spending, as these projects are already eligible to compete for funding within state SRF programs.

## USACE Principles, Requirements, and Guidelines (PR&G)

The USACE PR&G are the comprehensive set of planning guidelines that instructs how USACE evaluates studies for major water resources projects. Recent discussions about how to weight the environmental, economic, and social outcomes of a project risk overlooking the underlying water resources issue that needs to be addressed. Changes in the PR&G have the potential to upend USACE's planning process and result in significant impacts on the local sponsor's project plan as well as project costs borne by local taxpayers.

### REQUEST OF USACE:

- Proposed USACE rules on PR&G should establish a clear, concise, and workable planning framework that balances all three relevant factors (environmental, economic, and social) and offers predictability and certainty into USACE decisions to fund a project. TWCA supports more detailed [comments](#) provided by the National Waterways Conference.

## CONTINUING ISSUES

### Waters of the U.S. (WOTUS) Rulemaking & Indirect Discharges

EPA's and USACE's revised WOTUS rule, issued without opportunity for public comment after the *Sackett* decision, fails to align with the Supreme Court's ruling, specifically regarding defining a "continuous surface connection" and the "relatively permanent" standard. Further, EPA's draft guidance in response to the *County of Maui* ruling makes assertions that appear to overextend the ruling and improperly foreclose relevant considerations. State primacy on water resources, improved predictability, and maintenance of key exemptions should be foundational principles of a WOTUS rule and related guidance.

### REQUESTS OF CONGRESS:

- Provide oversight to ensure transparency and accountability in rulemaking and implementation.
- Provide resources appropriate to assure federal jurisdiction is not unduly burdensome.

### REQUESTS OF EPA & USACE:

- Promptly implement *Sackett* including through a renewed focus on the plain language of the ruling and issuing requested approved jurisdictional determinations. Use of notice and comment in the rulemaking process would provide opportunity to clarify remaining uncertainties in how the Agencies conform the rule to the *Sackett* ruling.
- Revise the draft *County of Maui* implementation guidance to emphasize that it is not a rule and to provide more flexibility to the permitting agencies to address what constitutes a "functional equivalent" of a direct discharge.





### Endangered Species Impacts to Water Infrastructure Projects

The implementation of the Endangered Species Act (ESA) is often fraught with issues or assumptions that undermine confidence in the final listing decision. In many cases, the lack of credible or comprehensive science can sway evaluations towards a positive listing. Once listed, substantial adjustments to land and water use are often required to protect the species at enormous costs to water and wastewater providers, continuing even when better scientific information demonstrates that the species does not need protection.

#### REQUESTS OF CONGRESS:

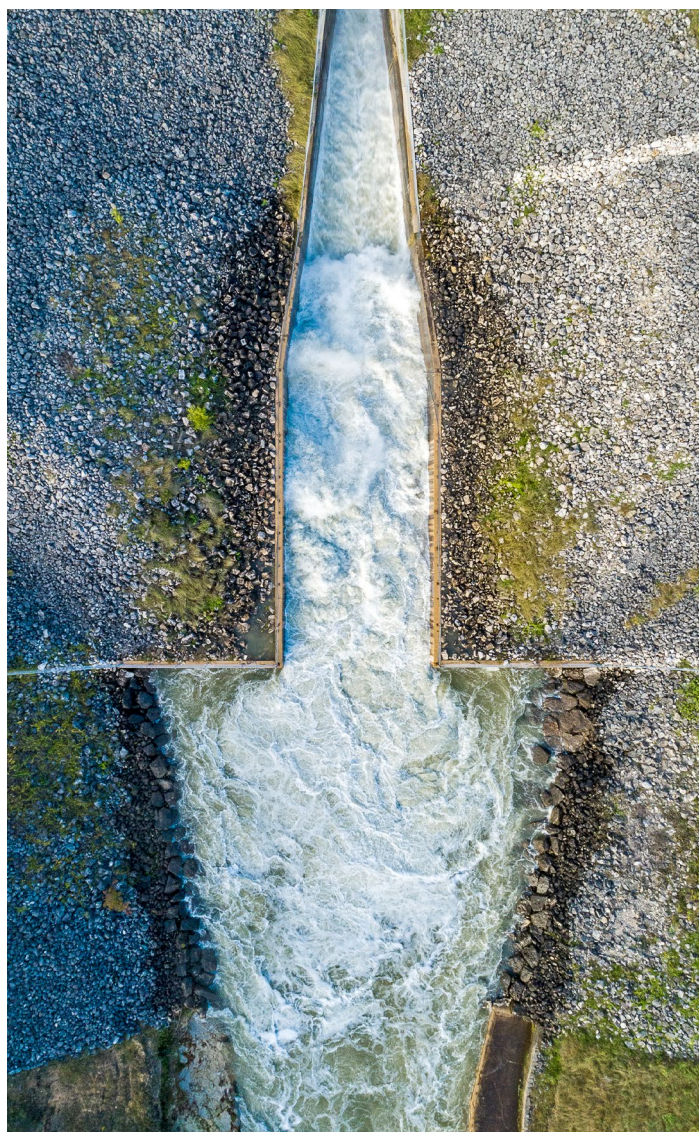
- Continue oversight of the U.S. Fish and Wildlife Services' (USFWS) implementation of the ESA to:
  - Ensure listing decisions are based on an objective evaluation of sound science
  - Support efforts to expand the scientific understanding of species so that listing and delisting decisions can be made in a timely and defensible manner
  - Provide research funding through competitive grants available to a diverse set of stakeholders
  - Make sure USFWS is conducting five-year assessments as required

### Expedite Rehabilitation of Flood Control Projects

Post-flood rehabilitation of flood control projects active in the P.L. 84-99 program are delayed an average of 2-4 years by requirements to obtain USACE approval and supplemental appropriations before making facility repairs. During those years, local governments are forced to either operate damaged facilities or bear the cost of repairs without reimbursement.

#### REQUEST OF CONGRESS:

- Authorize USACE to expedite flood control project repairs by allowing reimbursement of the federal share of rehabilitation expenses to non-federal sponsors under existing funding mechanisms.



### Sufficient Funding for USACE Water Resource Priorities

Limitations in the USACE operations and maintenance budget will potentially impact the agency's ability to meet the growing maintenance needs of its aging infrastructure in Texas and impact water providers' ability to efficiently manage use of State.

#### REQUEST OF CONGRESS & USACE:

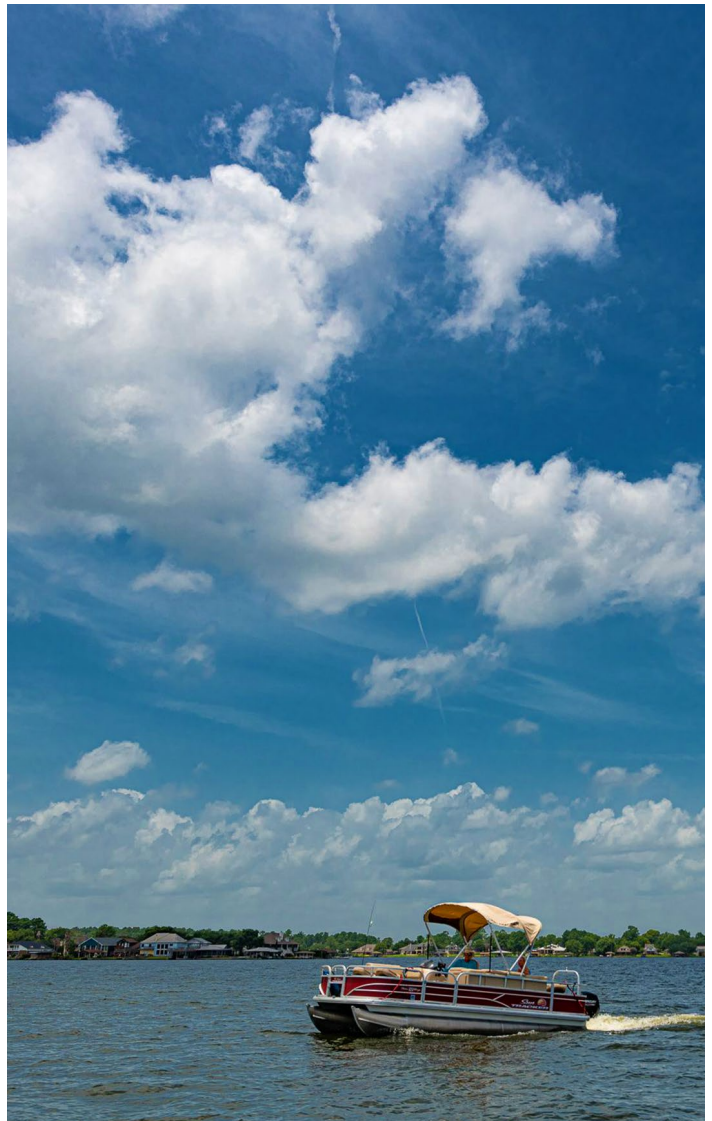
- Support sufficient funding to meet Texas water resource needs, specifically to fund scheduled repairs and maintenance at existing USACE reservoirs, studies for reallocation of water storage, and for the P.L. 84-99 program to implement repairs caused by major storm events.

### USGS Streamgages

TWCA members rely on the data collected from USGS streamgages to protect their communities from flood and drought, which threaten both life and property. The USGS Cooperative Agreement funding for streamgaging, originally funded at a 50-50 cost-share, has eroded away, and cooperators are now shouldering 65% of the cost.

#### REQUEST OF CONGRESS:

- Support full funding of Cooperative Agreement to restore 50/50 streamgage cost share (\$120 million); federal priority streamgages (\$130 million); and Next Generation Water Observing System to enhance data collection and database modernization in Texas (\$42.5 million).



### Exempt Water Conservation Rebates from Income Taxes

Water conservation is critical to meet the water needs for Texans today and into the future; it is expected to provide approximately 29% (2.2 million acre-feet per year) of all recommended water management strategy volumes in Texas in 2070. Exempting rebates provided by water utilities for water conservation and stormwater management from federal income taxes, as is already allowed for energy conservation, would encourage additional water conservation efforts.

#### REQUEST OF CONGRESS:

- Provide water rebates the same tax-exempt status as energy rebates by amending Section 136 of the Tax Code.

