



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **WESTERN GOVERNORS/CONGRESS FY2018 Appropriations/NIDIS**

On June 30, the Western Governors' Association (WGA) sent a letter to the House of Representatives Committee on Appropriations requesting adequate FY2018 funding support for the National Integrated Drought Information System (NIDIS) and the National Weather Service Climate Prediction Center. "Western Governors promoted the creation of NIDIS in 2006, and WGA has since worked with the National Oceanic and Atmospheric Administration (NOAA) and other partners to champion the system's deployment." The letter notes the cyclical nature of drought, and that increasing populations are relying on limited water resources, keeping drought "at the forefront of western issues."

NIDIS draws from existing capacity in states, universities, and federal agencies to promote a coordinated and integrated approach to drought preparation and response. Through NIDIS, NOAA is working with local resource managers to build a network of early drought warning systems that meet unique regional information needs. NIDIS promotes improved weather forecasting and monitoring, and serves as a central online portal for information that farmers, ranchers, land and water managers, business owners, recreationalists, wildlife managers, and state, tribal, and local governments need for effective water management decisions. "Western Governors value the approach used to build and improve NIDIS....Given our shared fiscal challenges, we regard this as a model for federal-state collaboration in shared information services." See <http://westgov.org>.

### **California/GROW Act**

On July 10, California Governor Jerry Brown sent a letter to Speaker of the House Paul Ryan opposing the Gaining Responsibility on Water (GROW) Act (H.R. 23). "This bill overrides California water law, ignoring our state's prerogative to oversee our waters." He notes that courts have consistently recognized state laws when it comes to the development and use of water. "Western states have successfully resisted any attempted intrusion into this essential attribute of their sovereignty, including in the operation or construction of water projects

involving the federal government." He said that California's economy depends on the wise and equitable use of its water, and that decision-making requires consideration and balancing of economics, biodiversity and wildlife resources, which is best done at the local level. "Undermining state law is especially unwise today as California, with input from all stakeholders, is poised to make its boldest water infrastructure investments in decades: funding surface storage, updating antiquated delta water conveyance, and adopting water-use efficiency targets."

Section 108 of the bill would codify provisions of the bipartisan 1994 Bay-Delta Accord between California and the federal government, requiring the Central Valley Project (CVP) and State Water Project (SWP) to be operated pursuant to the water quality standards and operational constraints, without regard to the Endangered Species Act. It would prohibit both federal and state agencies from restricting the exercise of California water rights to "conserve, enhance, recover or otherwise protect any species that is affected by operations of the [CVP] or [SWP]" or from using the Public Trust Doctrine to protect, enhance, or restore any public trust value. Implementation of the Bay Delta Accord "shall be in strict compliance with the water rights priority system and statutory protections for areas of origin." Section 108(d) would preempt California law "with respect to any restriction on the quantity or size of nonnative fish taken or harvested that preys upon one or more native fish species that occupy the Sacramento and San Joaquin Rivers," their tributaries and delta.

The House passed the GROW Act on July 14. Representative David Valadao (R-CA) introduced the bill to modernize water policies in California and throughout the West. He stated, "For years, California's sophisticated network of storage and delivery facilities have been sorely mismanaged, causing devastating impacts across the state. This problem has become even more apparent during the last several months. Despite record precipitation levels, families, farmers, and communities still lack access to a reliable supply of water. My bill, the GROW Act, will restore water deliveries, ensuring the Central Valley has access to a reliable water supply. I look forward to working with the Senate and sending this bill to the President's desk." Majority Leader

Kevin McCarthy (R-CA) said, "Today, we take another major step forward to bring our communities the water they contract and pay for by increasing pumping and speeding up the process to approve new water projects. Water is a necessity, and with it California and the entire west will have a brighter future."

Senators Dianne Feinstein (D-CA) and Kamala Harris (D-CA) said they would fight to defeat the bill in the Senate. "We oppose Congressman Valadao's bill to weaken California's ability to manage its own natural resources. California's Central Valley helps feed the world. It deserves sensible and responsible water solutions – this measure doesn't even come close to meeting that test. His legislation would preempt existing California environmental laws and regulations, giving the Trump administration greater control over water management in our state. Science should be at the center of all decisions affecting California's water supply. This bill would eliminate the existing biological opinions required under the Endangered Species Act. It also prevents California from using new scientific data to manage our water supply by reverting us back to outdated limits set more than two decades ago."

#### **ADMINISTRATION FY2019 Budget/OMB**

On July 7, Mick Mulvaney, Director, Office of Management and Budget (OMB) provided heads of agencies and departments with guidance for preparation of their FY2019 budget requests. He notes the Administration's changing priorities, including defense spending and investments in border security and public safety, as well as "efforts to streamline government by ensuring that the Federal Government spends precious taxpayer dollars only on worthwhile policies, and in the most efficient, effective manner."

The FY2019 Budget will build on the "ambitious plans laid out in the President's first budget...[and] will provide an opportunity to present a comprehensive plan for reforming the Federal Government and reducing the Federal civilian workforce." He references Executive Order 13781 regarding Reorganizing the Executive Branch, while noting OMB will work with agencies "...to help deliver the fiscal restraint necessary to achieve 3 percent economic growth over time."

Mulvaney continued, "Supporting the President's commitment to reprioritize spending and redefining the proper role of the Federal Government will require renewed efforts to focus limited resources on the most effective programs as well as continue to reduce waste, fraud, and abuse of taxpayer dollars." Unless otherwise directed by OMB, initial discretionary FY2019 budget submissions are to continue FY2018 proposals and "should reflect a level no higher than the net total provided" for FY2019, although agencies are "requested

to identify additional investments in effective programs that further support their mission and fill a clear Federal role. Overall, these additional investments should reflect no more than a 5 percent increase above your submission level." These investments are to be separately identified and prioritized.

Agencies submissions are due to OMB no later than September 11, and unless otherwise directed, are to exclude: (1) shifting costs to other parts of the federal budget; (2) reclassifying existing discretionary spending as mandatory; (3) reductions in spending to be enacted in appropriations bills; (4) across-the-board reductions; and (5) new user fees to offset existing spending. However, such proposals may be submitted separately for "consideration on their merits or as alternative ways to achieve the guidance level. OMB also intends to work with agencies to develop "new stand-alone mandatory savings proposals. Any new mandatory proposals should be at least budget neutral, or should be accompanied by new mandatory offsets that fully cover the costs.

E.O. 13781 and a "Hiring Freeze" Presidential Memorandum will be implemented according to an OMB memorandum (M-17-22), with agencies submitting Agency Reform Plans and long-term workforce plans along with their FY2019 budget submissions, and proposals categorized as: (1) eliminate activities; (2) restructure or merge; (3) improve organizational efficiency and effectiveness; and (4) workforce management. "The FY 2019 budget process will give special consideration to bold reform or reorganization proposals that have the potential to dramatically improve effectiveness and efficiency of government operations." The focus is to be on costs, savings, cost avoidance. Agencies are also to submit a draft FY2018-2022 strategic plan, and draft FY2019 performance plan aligned with their budget submission and agency priority goals.

Lastly, the Administration is committed to building and better integrating "evidence into policy, planning, budget, operational, and management decision-making." OMB calls for strengthening the use of data. Agencies are to submit proposals to build and use a portfolio of evidence, and strengthen agency infrastructure and capacity to use evidence, evaluation, and data tools.

#### **WATER QUALITY/LITIGATION *New Mexico v. Colorado/Gold King Mine***

On June 26, the U.S. Supreme Court denied New Mexico's petition to file a complaint against Colorado for damages relating to the Gold King Mine incident in 2015 and other related abandoned mine water pollution (WSW #2248). Colorado Attorney General Cynthia Coffman said: "Because it was the EPA and not Colorado that caused the Gold King Mine disaster, I have said from the beginning that New Mexico should not have sued Colorado in the Supreme Court.