



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS

North Dakota/Drought

On September 7, North Dakota Governor Doug Burgum met with U.S. Secretary of Agriculture Sonny Perdue and Secretary of the Interior Ryan Zinke to discuss drought relief and build on collaborative relationships. Nearly half of North Dakota is experiencing severe, extreme, or exceptional drought conditions. The Federal Emergency Management Agency (FEMA) is currently considering Governor Burgum's request for a presidential major disaster declaration to make assistance available to affected farmers and ranchers. The Governor thanked Perdue for the release of Conservation Reserve Program acres for haying and grazing. They discussed the importance of a strong crop insurance program in the next farm bill, as well as the need for more accurate data when reporting crop conditions.

Burgum also advocated for the Bureau of Reclamation's approval of the Red River Valley Water Supply Project intake permit from Garrison Diversion's McClusky Canal. They also discussed the Department of the Interior's (DOI) important land, water and minerals management role, especially as it pertains to collaboration on tribal lands.

Montana/Wildfires

On September 7, Montana Governor Steve Bullock met with FEMA Administrator Brock Long, urging additional assistance and resources to help fight wildfires. Governor Bullock said, "It has been a long and challenging fire season in Montana. We've had losses to homes, livestock, forage and infrastructure, and we've tragically lost the lives of two wildland firefighters. We are experiencing impacts to individuals and businesses across the state, who have endured losses due to evacuations, hazardous air quality, and sustained threats to our tourism and recreation industries. The situation is likely to get worse before it gets better. While I will continue to pursue every available resource to support fire response and recovery, I am asking that we work together to ensure the long-term health, safety, and livelihood of Montanans impacted by this disaster."

ADMINISTRATION/CONGRESS

Continuing Resolution/Debt Ceiling/FEMA

On September 8, Congress passed and the President signed into law the Continuing Appropriations Act (H.R. 601; Pub. L. 115-56). The Act provides additional emergency assistance to respond to Hurricanes Harvey and Irma, contains a continuing resolution that extends vital government programs and services, appropriating funds at FY2017 levels through December 8, and temporarily suspends the debt ceiling, raising it above \$14.3T (31 USC §3101(b)) to allow the United States to meet its financial obligations through December 8.

The Act provides \$15.3B in emergency funding, including \$7.4B for the FEMA Disaster Relief Fund, \$7.4B for Community Development Block Grants (CDBG) to help the hurricane-affected areas begin to rebuild, and \$450M for the Small Business Administration Disaster Loan program.

House/FY2018 Appropriations

On September 14, the House passed the \$1.2T Make America Secure and Prosperous Appropriations Act (H.R. 3354) by a vote of 211-198. The bill includes funding for all 12 annual appropriations bills. House Appropriations Committee Chairman Rodney Frelinghuysen (R-NJ) said: "These investments are made responsibly. In each of the bills within this package, we have found savings, gotten rid of waste, fraud and duplication, and increased oversight to ensure that no taxpayer dollar is misspent. But we still have more work to do. This is the next step in the process, but it is not the end. Funding these important federal responsibilities and keeping the government open is our constitutional duty to the people we serve, and I look forward to the final completion of all these critical bills."

Title I provides \$1.2B for the Bureau of Land Management, a decrease of \$46M below FY2017, including \$20M less for federal land acquisition. The White House press release notes that this is still \$50M above the FY2018 Budget request for land acquisition, emphasizing that with 500 million acres to manage and a \$15B backlog of deferred infrastructure maintenance,

the limited financial resources “should be focused on ongoing operations and maintenance.”

For the Fish and Wildlife Service, the bill contains \$1.5B, a \$38M decrease from FY2017. The legislation prioritizes invasive species and reducing the backlogs for refuge maintenance and endangered species delisting. The bill funds the National Park Service at \$2.9B, a \$38M decrease from FY2017, with cuts primarily aimed at land acquisition activities. The bill retains \$55M targeted toward park operations and maintenance to reduce the deferred maintenance backlog.

The U.S. Geological Survey would face a reduction of \$46M below FY2017 levels, to be funded at \$1B. The funding would focus on programs dealing with natural hazards, streamgages, the groundwater monitoring network, and mapping. The bill includes \$8.3M to support the Landsat 9 satellite program.

The bill would fund wildland fire management at \$3.4B, matching the 10-year average cost, with \$935M for the Department of the Interior and \$2.5B for the Forest Service. The amount is \$334M below the FY2017 level, but most of the reduction “is the result of the transfer of the Forest Service’s hazardous fuels reduction program to its National Forest System, as requested by the Administration.”

Title II of the bill would fund EPA at \$7.5B, a reduction of \$528M below the FY2017 enacted level, but \$1.9B above the Administration’s request. The bill appropriates \$1.14B for Clean Water State Revolving Funds (SRFs), and \$863M for Drinking Water SRFs, and authorizes states to use SRFs at their discretion for green infrastructure, water or energy efficient improvements, or other environmentally innovative activities. It also appropriates \$25M for the Water Infrastructure Finance and Innovation Act (WIFIA) program. Title IV, §431 would authorize EPA and the Corps to withdraw the Waters of the United States rule “without regard to any provision of statute or regulation that establishes a requirement for such withdrawal.” Section 426 would prohibit the use of SRF funds for projects “unless all of the iron and steel products used in the project are produced in the United States,” with limited exceptions granted by the EPA.

A House Appropriations Committee press release states that the bill “reflects the Administration’s goal to rein in outdated, unnecessary and potentially harmful regulations in the EPA.” A White House press release expresses appreciation for “the attention paid to critical water infrastructure needs” through funding the WIFIA program, and disappointment in the reduction to the Clean Water SRF. “Infrastructure investment is a priority for the Administration, and the bill level of \$1.1B for the SRF, which is \$250M lower than the FY2018 Budget request, would result in less funding going to States to

finance critical wastewater and storm water infrastructure investments.”

Title III includes \$5.2B for the Forest Service, half of which is for wildland fire management. It includes \$198M for cooperative programs with states and others to improve forest health management. It also appropriates \$25M from the Land and Water Conservation Fund, for acquisition of land or water, an increase of \$18M over the Administration’s FY2018 Budget request. The White House notes, “The Forest Service currently manages 193 million acres, has a deferred infrastructure maintenance backlog of over \$5B, and would be better served if its scarce resources were focused on improved management of existing assets and lands.”

ADMINISTRATION/WATER RIGHTS **New Mexico/Aamodt**

On September 15, the DOI published its Statement of Findings in the Federal Register (82 FR 43400) in accordance with the requirements of the Aamodt Litigation Settlement Act, Title VI of the Claims Resolution Act of 2010. The Settlement Act and underlying agreements quantify and define the water rights claims of the Pueblos of Pojoaque, Nambé, Tesuque, and San Ildefonso, to surface and groundwater, as well as additional water to be supplied via contract from the Bureau of Reclamation’s San Juan-Chama Project. It recognizes certain non-Pueblo water entitlements and allocations, including for local governments and water districts. It provides federal funding to help construct the Pojoaque Basin Regional Water System and establish the Aamodt Pueblos Settlement Fund.

To remain enforceable, the Settlement Act outlined nine conditions in §623 that had to be fulfilled by September 15, 2017. Secretary Zinke found that all conditions have been met, including: (1) revisions made to the agreement to conform with the Settlement Act; (2) the agreement has been signed by all the parties; (3) the authorized funds have been appropriated by Congress; (4) DOI has acquired and entered into appropriate water rights contracts; (5) the New Mexico State Engineer has issued permits to the Pojoaque Basin Regional Water Authority to change the points of diversion to the mainstem of the Rio Grande for the consumptive use of at least 2,381 acre-feet by the Pueblos; (6) the New Mexico State Legislature has enacted necessary legislation and provided the required state funding; (7) the U.S. District Court for the District of New Mexico has approved a partial final decree that sets forth the water rights according to the agreements and the Settlement Act; (8) the Court has approved a final decree that sets forth the water rights for all parties to the *New Mexico v. Aamodt* case (66-cv-6639); and (9) the Pueblos and the United States have executed the waivers and releases required by §624 of the Settlement Act.

The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.