



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS/CONGRESS **State-Federal Relationships**

On April 18, the Western Governors' Association (WGA) sent a letter to Rep. Rob Bishop (R-UT) as the Chair of the Speaker's Intergovernmental Task Force. "This letter responds to your invitation to provide specific actions that Congress could take to improve the state-federal relationship."

Recommendations included: (1) explicitly avoiding preemption of state authority in legislative actions; (2) defining "consultation" to include meaningful government-to-government communication with states through their governors or designees, separate from stakeholder or public processes; (3) furthering the goals of streamlining agency decisions by incorporating state and local data and expertise; (4) consulting with affected states on settlement negotiations with federalism implications; (5) clarifying state-federal communications during informal rulemaking proceedings, exempting them from ex parte, FACA, or FOIA requirements; and (6) ensuring the relevance of the Unfunded Mandates Reform Act by eliminating the \$100M threshold and providing further consultation and review protections. "The implementation of these recommendations will have meaningful, enduring impacts on the state-federal relationship and enable us to better serve our common constituencies."

WGA also references the principles contained in Policy #2017-01, Building a Stronger State-Federal Relationship, and notes that the federal government's powers are narrow and defined relative to the state powers. "State governments are co-sovereigns and co-regulators with the federal government." The relationship is particularly important in the West, where the federal government is the largest landowner.

CONGRESSIONAL UPDATE **Farm Bill 2018**

On April 12, Rep. Michael Conaway (R-TX) introduced the Agriculture and Nutrition Act (H.R. 2). On April 18, the House Agriculture Committee considered and approved the bill by a vote of 26-20.

Title II contains provisions for conservation programs. Section 2302 maintains authorization for the Environmental Quality Incentives Program (EQIP) and increases funding to \$3B per year through FY2023. The bill eliminates the Conservation Stewardship Program (CSP) (§2801), but incorporates some CSP features, such as precision planning, cover crops and crop rotations, and irrigation scheduling technology, into the EQIP Working Lands Initiative (§2301). As of FY2016, the CSP had over 70M enrolled acres, with over a million acres each in Kansas, Montana, Nebraska, New Mexico, Oklahoma, and South Dakota. The existing contracts will continue, but would not be renewed, if the bill passes. See www.nrcs.usda.gov/Internet/NRCS_RCA/maps/cp_cstp_maps.html.

Authorization is extended through FY2023 for the Grassroots Source Water Protection Program, with an additional \$5M in funding (§2402). Section 2404 reauthorizes Watershed Protection and Flood Prevention, including the Small Watershed Rehabilitation programs to address aging dams, erosion, floodwaters, and watershed protection and restoration with \$100M per year in addition to funds through the Commodity Credit Corporation (CCC) (§2404). Section 2102 provides \$10M of the CCC funds to carry out the Wetland Mitigation Banking Program (16 USC §3822(k)(1)(B)). The CCC is authorized at \$500M per year through FY 2023 (§2501).

The bill authorizes \$250M per year for the Regional Conservation Partnership Program (RCP) (§2704), but removes the additional project authority of the state-federal cooperation provisions of the Watershed Protection and Flood Protection Act (16 USC 1001 et seq.) for designating critical conservation areas (§2706). Section 2802 would eliminate the Terminal Lakes Assistance program (16 USC §3839bb-6), which provides 50% cost-share grants to states to purchase eligible flooded lands in closed basins.

Section 2603 reauthorizes the Agricultural Conservation Easement Program (ACEP) with modifications to provisions on eligible non-federal cost-share contributions, criteria that account for geographic differences between states, localized mineral development, and technical assistance.

Section 2201 gradually increases acreage of land eligible for the Conservation Reserve Program (CRP) from 25M acres in FY2019 to 29M acres in FY2023, while capping rental rates and focusing the CRP toward fragile lands. Section 2202 reauthorizes the farmable wetlands program through FY2023, but reduces the total number of eligible wetland acres that may enroll in the CRP from 750,000 down to 500,000.

The Committee approved an amendment by Rep. Mike Bost (R-IL) to include nutrient recovery systems in the definition of “new and innovative conservation approaches” in the Conservation Innovation Grants program (§2304).

Title V reauthorizes the Conservation Loan and Loan Guarantee Program to help farmers and ranchers implement conservation measures on their lands, but reduces funding from \$150M to \$75M per year (§5102).

Title VI covers rural development. It gives rural communities increased access to credit to finance critical infrastructure, including public water systems. Grants for water, waste disposal, and wastewater facilities are reauthorized, and maximum financing levels are increased from \$100,000 to \$200,000; however, overall funding for the program is reduced from \$30M a year down to \$15M a year (§6204). The Technical Assistance and Training Program is amended to include options for long-term sustainability of systems (§6205). The Circuit Rider Program is reauthorized, with an increase from \$20M to \$25M (§6202). Grants for NOAA weather radio transmitters (7 USC §2008p(d)) and the National Agricultural Weather Information System are reauthorized through FY2023 (§6220, §7206).

Title VIII includes forest management activities. It reauthorizes the Landscape Scale Restoration Program for the U.S. Forest Service and state agencies to tackle forest health, wildfires, and drinking water protection (§8104). Sections 8311 to 8321 establish categorical exclusions from National Environmental Policy Act (NEPA) requirements for various forest management activities, including wildfire prevention and mitigation.

Title X covers crop insurance provisions to manage risk from drought and other natural disasters.

CONGRESS/WATER RESOURCES **Hydropower/Columbia River**

On April 25, the House passed H.R. 3144, to provide for operations of the Federal Columbia River Power System, by a 225-189 margin. The bipartisan bill mandates a certain operation plan to provide some certainty for water and power users, by codifying a 2014 Biological Opinion issued under the Endangered Species Act, and implement a collaborative agreement to manage the river system to protect fish and support

clean, renewable energy. “Dams and fish can coexist, and after more than two decades in the courtroom, let’s let scientists, not judges, manage our river system and get to work to further improve fish recovery efforts,” said Rep. Cathy McMorris Rodgers (R-WA). She introduced the bill last June. “The need for this legislation became clear when an unelected judge rejected...collaborative work, claiming he knows better how to manage the Columbia River than all of the scientists, tribes, elected officials and others who are using the river.”

In March 2017, U.S. District Judge Michael Simon issued an order requiring federal agencies to increase spill over the Columbia and Snake River dams, an order expected to cost taxpayers roughly \$40M. Many scientists contend that spill leads to increased dissolved nitrogen and other gases in the water, actually killing fish. (See WSW #2290).

McMorris Rodgers added: “When the sun doesn’t shine and the wind doesn’t blow, our dams provide critical baseload energy to power homes and businesses all across Eastern Washington and the Pacific Northwest. Not only that, they provide transportation and irrigation benefits for our farmers, flood control for our communities, and recreational opportunities that fuel our economy. This isn’t about the merits of protecting salmon, we all agree on that. This is about providing certainty and letting experts and scientists in the region, who know the river best, work collaboratively to meet that goal.”

“Our bill finally codifies that science, not politics or the courts, should dictate the best way to balance fish recovery and the power needs in the Pacific Northwest,” said Rep. Schrader (D-OR), a cosponsor. “Scientific experts steeped in fish recovery and clean renewable energy will be able to do their job based on good science rather than an ideological crusade to eliminate dams on the river system resulting in the loss of our region’s best carbon free energy asset. Simply put, the Columbia River Power System will be managed according to the 2014 Obama Administration approved biological opinion until a new BiOp can be completed by 2022, saving ratepayers millions of dollars. I am pleased to have worked with Rep. McMorris Rodgers, and our Pacific Northwest colleagues, on this bill to bring science back into the equation for our Oregon and Pacific Northwest Salmon recovery efforts.”

“House passage of H.R. 3144 is a momentous accomplishment,” stated Terry Flores, Executive Director of Northwest River Partners. “It’s good news for salmon, which will continue to benefit from protections that are already working; for the environment, because the federal dams generate nearly 90% of the Northwest’s carbon-free, renewable energy; and for families and businesses who need relief from rising power rates resulting from two decades of anti-dam lawsuits.”

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.