



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

682 East Vine Street / Suite 7 / Murray, UT 84107 / (801) 685-2555 / Fax 685-2559 / www.westernstateswater.org

Chairwoman - Jeanine Jones; Executive Director - Tony Willardson; Editor - Michelle Bushman; Subscriptions - Julie Groat

WESTERN GOVERNORS

New Mexico

On January 1, Governor Michelle Lujan Grisham was sworn into office becoming the 32nd governor of the State of New Mexico. In her inaugural address, Lujan Grisham emphasized that a relentless commitment to hard work, the defining characteristic of her decades-long public life, will see her Administration through to its lofty and yet achievable goals and deliver a comprehensively reimagined New Mexico. "Political victories are not worth a whole lot on their own. Progress into the better day we all envision is a collaborative, everyday effort. And it doesn't happen without the unifying commitment of New Mexicans who truly believe this better future is not only possible but within reach, especially if we are reaching for it together."

ADMINISTRATION

Department of the Interior

On January 2, Department of the Interior (DOI) Secretary Ryan Zinke handed leadership over to Deputy Secretary David Bernhardt, who became acting secretary. Zinke left a handwritten note: "It has been a high honor to serve the President and the American People as Interior Secretary. We have restored our public lands 'for the benefit and enjoyment of the people,' improved public access, and shall never be held hostage again for our energy needs. God bless America and those who defend her." In addition, to the President naming Zinke's replacement, other positions at Interior yet to be permanently filled include: Assistant Secretary for Policy, Management and Budget; Assistant Secretary for Fish, Wildlife and Parks; Solicitor; Inspector General; Bureau of Land Management Director; Fish and Wildlife Service Director; National Park Service Director; and Director of the Office of Surface Mining Reclamation and Enforcement. Zinke's departure was quiet, as was the building, with many of Interior's approximately 70,000 employees furloughed during the present government shutdown.

ADMINISTRATION/CONGRESS

Executive Branch Nominations

On January 2, the last day of the 115th Congress, the Senate approved a number of nominees for various

positions in the Administration, including Mary Neumayr to lead the Council on Environmental Quality (CEQ) and Kelvin Droegemeier as Director of the Office of Science and Technology Policy (OSTP). Daniel Simmons was confirmed as the Department of Energy's Assistant Secretary for Energy Efficiency and Renewable Energy, and Teri Donaldson as Inspector General. Alexandra (Alex) Dunn was confirmed as head of the Environmental Protection Agency's Office of Chemical Safety and Pollution Prevention. The White House will have to renominate candidates not yet confirmed including David Vela to lead the National Park Service (NPS), Barry Myers as head of the National Oceanic and Atmospheric Administration (NOAA), Andrew Wheeler as Administrator of the Environmental Protection Agency (EPA), and William Barr to head the Department of Justice.

Government Shutdown/Furloughs

With the President and Congressional Democrats still at odds, there is no timetable for ending the current partial government shutdown. Government employees, in the context of shutdown furloughs, are categorized by different terms. "Excepted employees" are funded through annual appropriations but are nonetheless excepted from the furlough because they are performing work that, by law, may continue during a lapse in appropriations. Excepted employees include employees who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work. Employees are "exempt" from furlough if they are not affected by a lapse in appropriations. This includes employees who are not funded by annually appropriated funds. "Emergency employees" must report for work in emergency situations – e.g., severe weather conditions, air pollution, power failures, interruption of public transportation, and other situations in which significant numbers of employees are prevented from reporting for work or which require agencies to close all or part of their activities. Emergency employees are not automatically deemed excepted employees for purposes of shutdown furloughs. Individuals appointed by the President, with or without Senate confirmation, are not subject to furlough, because they are considered to be entitled to pay solely by virtue of their status as an officer, rather than by virtue of the hours they work.

CONGRESS

House Speaker/Minority Leader/Rules Committee

On January 3, Nancy Pelosi (D-CA) was sworn in for the second time as the first and only woman elected Speaker by her party. The Democratic Caucus vote was 220 in favor, with 15 members not voting. At 78, she is one of the oldest speakers. To quell young Democratic House Members concerns that their Leadership is not developing new talent, and that the Party needs a new face, she has said she will limit her term as Speaker to no more than four years, and step down in 2022. Further, if she wants to continue as Speaker past 2020, it will require a two-thirds vote by Democrats. Her leadership includes her same two deputies who served with her from 2007-2011, Majority Leader Steny Hoyer (D-MD) and Majority Whip Jim Clyburn (D-SC). Republicans elected Kevin McCarthy (R-CA) as the House Minority Leader, and Steve Scalise (R-LA) as Minority Whip. There are 100 new House members, nearly a quarter of the House membership.

Pelosi and incoming House Rules Committee Chairman Jim McGovern (D-MA) have released a package of rules to guide the new House, which include among other rules: (1) requiring the text for any major bills be available 72 hours before a floor vote; (2) creating a "consensus calendar" to expedite bipartisan legislation; (3) changing the method by which the Speaker may be removed; (4) prohibiting members and staff from serving on corporate boards; and (5) reinstating a pay-as-you-go or PAYGO rule forcing lawmakers to offset spending or decreases in revenues that would otherwise increase deficits by proportionate spending cuts elsewhere or increasing revenue.

A PAYGO agreement designed to reign in large deficits was first implemented in 1990, expired in 2002, and was enacted as the Pay-As-You-Go Act of 2010. A Senate PAYGO rule was implemented in 1993 and remains in effect. A House PAYGO rule was implemented in 2007 but repealed in 2011. The PAYGO statutory applied to any newly enacted legislation related to mandatory spending and/or revenues. The Office of Management and Budget (OMB) tracks costs and savings of legislation. If there is a deficit, the President orders a sequestration or cancellation of spending authority to offset the difference. <https://www.pgpf.org/budget-basics/understanding-complex-budget-terms-and-processes-and-why-they-matter/what-is-paygo>.

WATER RESOURCES/ENVIRONMENT

California State Water Project/Central Valley Project

On December 14, the California Department of Water Resources (CDWR) and the U.S. Bureau of Reclamation (USBR) reached agreement on updating how the State Water Project (SWP) and Central Valley Water Project (CVP) are operated to meet environmental

regulations. "The state and federal projects are intertwined, and we have a joint interest and responsibility to ensure our water system meets California's needs especially as conditions change," said CDWR Director Karla Nemeth. The Coordinated Operation Agreement (COA) was originally signed in 1986 and defines how the state and federal water projects share water quality and environmental flow obligations imposed by regulatory agencies. The agreement calls for periodic review to determine whether updates are needed in light of changed conditions. After completing a joint review process, CDWR and Reclamation agreed to an addendum to the COA to reflect water quality regulations, biological opinions and hydrology updated since the agreement was signed. The CDWR and the Bureau also signed an agreement to formalize the cost sharing formula for projects needed to meet joint responsibilities under the Endangered Species Act (ESA). The new agreement calls for costs to be shared equitably between the state and federal projects for work to meet joint responsibilities under the ESA, including monitoring and habitat restoration.

CDWR Director Karla Nemeth said, "The operating agreement was supposed to be adjusted every five years. But in the 32 years since it was signed, no adjustments were made. In that same period, our water management challenges changed dramatically. During the record-breaking drought in 2014-2015, for example, it was evident that federal reservoirs simply did not have enough water to provide cold water for salmon in rivers upstream and freshwater flows for the Delta. The state needed to step in, and it did, releasing more water from state reservoirs to meet shared environmental responsibilities and taking other measures. The updated agreement recognizes changed conditions since 1986, including hydrology and environmental regulations. The update also calls for more periodic reviews to reflect current conditions."

Finally, the state and federal government agreed on how to move forward with the Delta conveyance project known as California WaterFix, an upgrade to the existing infrastructure that delivers water through the Delta that will improve environmental conditions and ensure reliable water supplies. According to Nemeth, "This agreement provides the opportunity for continued federal participation, but also describes how the project would operate if the federal government or Central Valley Project water contractors choose not to participate. California's water management systems in the Sacramento-San Joaquin Delta watershed are complex. Agreements about how to manage them for water users and the environment take years to resolve and must be able to weather changes in state and federal administrations. That makes it essential to sustain coalitions to support this work so vital to California's environment and economy." See: <https://water.ca.gov/News/Blog/2018/Dec-18/What-new-water-deals-mean-op-ed>.

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.