



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS/CONGRESS Appropriations FY2021

On February 25, Western Governors' Association (WGA) Executive Director Jim Ogsbury testified before the Subcommittees on Energy and Water Development, and on Agriculture, Rural Development, and the Food and Drug Administration. WGA supports: (1) prohibiting the use of funds for activities that usurp state authority over groundwater resources; (2) investments in water infrastructure projects and improvements for aging water, wastewater, and hydropower facilities, emphasizing long-term sustainability over incremental spending choices; (3) tools such as "loan guarantees, revolving funds, infrastructure banks, water trust funds, and the Water Infrastructure Finance Innovation Act (WIFIA) program;" (4) data collection, monitoring and communication for improvements to sub-season and seasonal precipitation forecasting and water supply availability, coordinated across federal and state agencies; and (5) federal cooperation and funding to support state programs to contain invasive species affecting western water resources.

Ogsbury said: "The Subcommittee should continue to fully use receipts accruing to the Reclamation Fund for their intended purpose: the conservation, development and use of resources to meet western water-related needs. Western Governors support the construction of congressionally authorized BOR rural water projects and facilities that are part of congressionally authorized Indian water rights settlements."

Ogsbury emphasized land management, rural development, and nutrition assistance. Also, "Western Governors support the continued efforts of the Rural Utilities Service to provide financial assistance for drinking water and wastewater facilities, and broadband connectivity in rural and remote areas, particularly in communities that have minimal or no such infrastructure."

The Department of Agriculture's conservation programs – when targeted, voluntary, and collaborative – address important issues of soil health, air and water quality, wildfire resilience, wildlife habitat and invasive species. "The work of the Natural Resources

Conservation Service (NRCS) is especially important to western states..." by empowering private landowners to work with states and the federal government to address large-scale management priorities.

"Western Governors also support adequate funding of the NRCS Snow Survey and Water Supply Forecasting (SSWSF) program. Sufficient funding is required to ensure the long-term viability of the program's continued and uninterrupted collection of snowpack and water data, the full operation and maintenance of all snow survey sites, the hiring of needed program staff, and technological and software upgrades. The SSWSF program provides integral information for water supply management decisions in agricultural production, hydroelectric power generation, reservoir operations, industry, recreation and economic development, and international treaties. The program's forecasting and predictive capabilities are critically useful throughout the arid West, where snowpack accounts for the vast majority of the region's annual water supply." See <https://westgov.org/letters>.

WRDA/Water Supply Rule/Natural Flows

On February 27, the WGA, the WSWC and the Conference of Western Attorneys General (CWAG) sent a letter to the Senate Committee on Environment and Public Works in support of the Committee's efforts to enact its biennial Water Resources Development Act (WRDA). With limited water resources in the West, and competing demands for population growth, economic development, drought mitigation, flood control, fire suppression and other needs, "responsible federal resource development legislation is essential to efficient and effective stewardship of water supplies in the United States." Infrastructure to reliably deliver clean water is critical.

"As the Committee develops its 2020 water resources development legislation, we ask that you consider including language to address an issue of special concern: the protection of states' primary authority to manage and allocate waters stored in U.S. Army Corps of Engineers reservoirs. Specifically, we request that the legislation include bipartisan language that has been submitted by Senator Cramer and Senator

Merkley that expressly recognizes states' primary authority over natural flows within river systems and excludes such waters from any Corps' definition of 'surplus water.'" The letter goes on to note that, although the Corps as withdrawn its proposed Water Supply Rule (81 FR 91556), "... uncertainty remains as to how the Corps intends to define and treat so-called 'surplus water' within its reservoirs. Statutory language that recognizes and preserves states' primary authority to access, manage, and allocate natural flows within river systems – and excludes such flows from any definition of 'surplus water' or 'impounded water' – would provide needed certainty and predictability and would thwart any future attempts by the Corps to unlawfully assert jurisdiction over such waters." See WSW #2384; <https://westgov.org/letters>.

WATER RESOURCES

Nebraska/Integrated Management Planning

In the March 2020 issue of Irrigation Leader, an interview with Jeff Fassett, Former Director of the Nebraska Department of Natural Resources (NDNR), describes the relationship between the state and local Natural Resources Districts (NRDs) in managing water resources. The NDNR has jurisdiction over surface water, and NRDs have jurisdiction over the permitting and use of groundwater. The state legislature mandated the conjunctive management of surface water and groundwater supplies in 2004, through a process called Integrated Management Planning (IMP). Fassett noted that much of the initial IMP centered on the Republican River and the Upper Platte River. While some areas of the state are now working on their 4th or 5th generation IMPs, other areas with more plentiful water resources are just beginning on their first IMP, analyzing the interaction between surface and groundwater with computer modeling and data collection. The IMPs and NRD expertise are also useful for the state's basin-wide planning processes, helping identify new projects and initiatives, such as metering, new computer systems, and infrastructure replacement following severe floods.

The IMPs often involve water conservation, and the NDRs incentivize activities like "reducing irrigated land, stepping up metering, augmenting water supplies, and installing soil moisture probes." The NDNR and the NDRs have a 60/40 cost share (respectively) to implement IMPs, and the NDRs typically raise funds through levies or taxes on land. The NDRs apply for state and federal grants, from Nebraska Environmental Trust and Water Sustainability Fund, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), and the Bureau of Reclamation's WaterSMART program.

When asked, Fassett acknowledged that the Nebraska NRD model could be beneficial to other states, and noted that several board members and managers

have been invited to speak around the country. He said the concept of having some decisions made at the local level "...suits Nebraska particularly well because this state has enormous groundwater resources that it relies on to a significant degree for a variety of uses as well as a geohydrology that varies significantly in different areas of the state. That means that local knowledge is critical. The NRDs have that knowledge and are close to the people that they are regulating and monitoring. But it is critical to have the local entities closely linked to the state. There need to be working relationships between the local and state jurisdictions." The Wyoming State Engineer for 16 years, added that Wyoming's system is different, with the state having jurisdiction over surface and groundwater, and it works well. "I don't think it would be wise to force the two-tier system on [Wyoming] or other states without thoroughly evaluating whether it would make sense."

WATER RESOURCES/ENVIRONMENT

Infrastructure/Climate

On February 13, the Government Accountability Office (GAO) released a report stating that EPA can and should do more to help water utilities make their drinking and wastewater infrastructure more resilient to climate risk. Several agencies provide technical and financial assistance to utilities, including: the Federal Emergency Management Agency, the Department of Housing and Urban Development, and the Department of Agriculture. EPA's Creating Resilient Water Utilities program is the only one that focuses specifically on drinking water and wastewater resilience. However, GAO found the program is too small to adequately provide nationwide assistance to strengthen critical water infrastructure to withstand the impacts of extreme weather and other potential environmental changes. GAO looked into the vulnerability of water infrastructure to climate risk at the request of Senate Environment and Public Works Committee members Ben Cardin (D-MD) and Sheldon Whitehouse (D-RI).

Senator Cardin introduced the Clean Water Infrastructure Resilience and Sustainability Act (S. 2636) to expand federal assistance to water systems. Cardin said: "This GAO report is the latest to show how our drinking water and wastewater treatment systems are at great risk from climate change impacts and that there is no better investment than protecting public health through our water infrastructure."

GAO suggests that EPA identify existing technical assistance providers and create a network that utilities can use to help them incorporate climate resilience into water infrastructure projects and planning on an ongoing basis. It also recommends that Congress consider requiring that climate resilience be included in planning for federally funded water infrastructure projects. See: <https://www.gao.gov/products/gao-20-24>.

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.