



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS WGA Winter Meeting

On December 6-7, the Western Governors' Association (WGA) met in Phoenix, AZ. The governors approved three policy resolutions: (1) #2023-02, calling on the federal government to honor its statutory obligations to share royalty and leasing revenue payments from federal lands and minerals with states and counties; (2) #2023-03, calling on the federal government to honor its historic Payment In Lieu of Taxes agreement with states and counties to compensate for the presence of tax-exempt federal lands within their borders that still require vital public goods and services, such as roads, emergency response, and wildlife and natural resources protection; and (3) #2023-04, recommending actions to improve federal housing programs and resources to function more effectively in western states and territories.

Deb Haaland, Secretary of the Interior, was the first keynote speaker, and she noted that wildfires, floods, and droughts are our new reality. She talked about the need to prioritize collaboration and partnerships across federal agencies and with states and tribes. She pointed to the unprecedented investments in water projects across the west, water rights settlements with tribes, and improving wildfire mitigation and resilience, referring to these efforts as "actions with outsized impacts." She noted that there are tight water years ahead.

John Leshy, the second keynote speaker, discussed the history behind the federal reservations of public lands, noting that these reservations have strong bipartisan support and tend to bring Americans together more than they divide them. He showed the consistent increase in protected federal lands since the late 1800s across political parties. "Regardless of political party, large majorities of Americans across the West want more and better protected public lands."

Mitch Landrieu, White House Senior Advisor and Infrastructure Coordinator, the third keynote speaker, talked about efforts to work with states and tribes to put the funds from the Infrastructure Investment and Jobs

Act (IIJA) to work. He talked about potholes, safe bridges, internet access, clean air and clean water. He talked about the Departments of Agriculture and the Interior leading the effort in addressing aging irrigation infrastructure with those funds. He said the federal agencies are standing "shoulder to shoulder" with the Western governors in addressing drought and wildfires in the West. He talked about DOE grants and competition for the development of hydrogen fuel hubs and efforts to incentivize states into regional cooperation.

Roundtable topics included: (1) progress on zero-emission heavy-duty vehicles; (2) making existing desalination technologies accessible to western communities; (3) forest health and wildfire impacts on air quality and public health; (4) domestic supply of critical rare earth minerals and supply chains for electric vehicles; and (5) addressing the spike in housing costs and challenges of adequate supply and equity for underserved populations.

The governors announced the retirement of Executive Director Jim Ogsbury, noting that he will continue to work with WGA on their charitable and youth programs. <https://westgov.org/news/article/view-the-2022-winter-meeting-agenda>

WATER RESOURCES/ORGANIZATIONS Interstate Compacts/Council of State Governments

On December 7, at the invitation of the Council of State Governments (CSG), WSWC Executive Director Tony Willardson addressed a packed room of some 100 state legislators on Allocating Natural Resources: Lessons from the Colorado River Compact at their annual meeting in Honolulu, Hawaii. He introduced legislators from as far away as Connecticut and Canada to the WSWC and our mission, vision and principles.

Former California Governor Ronald Reagan, referring to the Council, said, "I am impressed with the need for the states of the West to look beyond sectional interests and to approach water resource development on a regional basis. Few endeavors offer more challenge...and greater potential for lasting benefit.

Unless we are successful, lack of water will soon limit development throughout much of the West....” He added, “I am convinced that the best approach to westwide regional planning is through cooperative state action. I see no need, certainly at this time, for the states to look to Washington to act as a broker in this endeavor.”

The present drought in the Colorado River Basin (CRB) highlights challenges related to water allocation including: (1) growth and related economic and environmental water needs; (2) limited data regarding water supplies and demands; (3) competing or poorly defined water rights; (4) aging and often inadequate infrastructure; (5) unpredictable climate and extreme events; and (6) a constantly evolving regulatory landscape.

The WSWC Vision Statement reads: “Effectively addressing these challenges will require stronger collaboration and cooperation that transcends political and geographic boundaries between states, federal agencies, tribes, and local communities.” Our principles add: “States have the pivotal role in water planning, as well as allocating and protecting the resource. Success will depend in large part on state initiative and innovation. Federal agencies should use state water plans to help determine national water policy and priorities that best align federal agency support to states; and to inform decision making regarding regional water issues.”

The WSWC’s Western Federal Agency Support Team (WestFAST) was mentioned, along with the fact that States are not stakeholders, but sovereign partners. A brief background was presented on western water law and different approaches and doctrines for allocating both surface and groundwater resources, as well as recognizing federal reserved rights, including tribal rights. Also, WSWC efforts to help better define water rights, water use and demand were noted, including our Water Data Exchange (WaDE) and Western Water Data Access and Analysis Tool (WestDAAT).

The unprecedented nature of the challenges now facing the CRB were discussed together with the historic and modern efforts to come together to find solutions. Basin States have and continue to play a vital role in the allocation, conservation, development and management of the region’s water resources, together with the U.S. Department of the Interior, beginning with the Colorado River Compact and more recently evident with the 2019 signing, congressional authorization, and implementation of individual state drought contingency plans. Discussions continue on new 2026 CRB federal project operating criteria and guidelines.

Some of the many agreements, congressional acts and project authorizations, court decrees, federal

guidelines, international treaty minutes and other documents developed over the past 100 years that make up the “Law of the River” were mentioned. A number of legislators were surprised by the number and complexity of these “side” agreements that followed the Colorado River Compact. Further, both collective and individual State and water district efforts to address and share shortages were noted.

Among some of the lessons were that the Colorado River Compact and Law of the River defined rights to the use of water in the basin and provide a legal foundation for cooperative work. Colorado River water allocation and management is very complex. Current conditions were not foreseen as the Compact was adopted during a wet hydrologic period (but also negotiators were conservative given then projected flows). States play a pivotal and innovative role in adjusting to the new reality, and collaborative state action has been a key to addressing the continuing drought. Up until now, the federal government has generally allowed the CRB States to find consensus on operational and other changes. The CRB is unique (as are other basins), and the allocation of water resources requires both certainty and flexibility.

MEETINGS

States-Only PFAS Roundtable

On January 18, 2023 from 1:00 pm - 3:00 pm (MT) the WSWC will hold a States-only Per-and Polyfluoroalkyl Substances (PFAS) Roundtable. The roundtable will provide an opportunity for states to discuss PFAS issues/initiatives through: current strategies, initiatives and/or successes including state-led project examples for using the IJJA emerging contaminant funds; examples of current challenges with implementing PFAS advisories and/or IJJA funding; and resource needs to overcome barriers. For further information, including how to register, please see: <https://westernstateswater.org/events/states-only-pfas-roundtable/>.

PEOPLE

Rebecca Roose, Deputy Cabinet Secretary of Administration, New Mexico Environment Department (NMED), and WSWC member is resigning from her position at NMED effective December 16. Rebecca previously served as the Department’s Water Protection Division Director from 2019 through May 2021, where she led surface and groundwater quality, drinking water protection, and wastewater infrastructure finance programs for the State. Rebecca was appointed to the WSWC in March 2020 and served on the Water Quality Committee. We wish Rebecca all the best in her future endeavors.

The WESTERN STATES WATER COUNCIL is a government entity 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.