



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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CONGRESS

National Defense Authorization Act/WRDA

On December 15, the Senate voted to pass the \$858B James M. Inhofe National Defense Authorization Act (H.R. 7776), by a vote of 83-11. The bill next heads to President Biden's desk for his signature. In addition to the military funding and authorizations, Division H, Title 81 includes the Water Resources Development Act (WRDA).

Most notably, Section 8158 established an Army Corps of Engineers (Corps) Western Water Cooperative Committee. The purpose is to ensure that Corps "flood control projects in Western States [AK, AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY] are operated consistent with congressional directives by identifying opportunities to avoid or minimize conflicts between the operation of the Corps of Engineers projects and water rights and water laws in such States." The membership of the Cooperative Committee includes the Assistant Secretary of the Army for Civil Works, the Chief of Engineers, 2 representatives from each Western State appointed by the governor and the attorney general, and 1 employee from each of the impacted regional offices of the Bureau of Indian Affairs. The governor-appointed representative may serve on the WSWC. The Cooperative Committee is required to meet at least once a year in one of the Western States at meetings accessible to the public. The recommendations of the Cooperative Committee may only apply to Western States and may not adversely affect water resources within the State of Missouri.

Section 8108 authorized a national assessment of managed aquifer recharge projects at Corps facilities to address drought, water resiliency, and aquifer depletion. It authorized 10 feasibility studies, and coordination with other federal agencies, states, regional governmental agencies, local governments, tribes, and experts in managed aquifer recharge.

Section 8109 authorized updates to Corps water control manuals at the request of any governor that declared a statewide drought disaster in 2021, "with priority given to those projects that include water supply or water conservation as an authorized purpose."

Section 8119 amended 42 U.S. Code § 1962d-16 regarding technical assistance to states and regional coalitions in developing comprehensive plans to address water resource challenges. The bill expanded eligibility to include local governments, waived fees for disadvantaged communities, and increased the authorized appropriations from \$15M to \$30M annually.

Section 8121 authorized assessments of federal and non-federal levees, but the non-federal levee assessments may only be carried out at the request of the non-federal interest and with an agreement to provide half the cost of the assessment. Section 8122 authorized a national low-head dam inventory within 18 months, in coordination with federal and state agencies, and authorized \$30M in appropriations.

Section 8130 authorized the development of a strategic plan – in consultation with federal agencies, states, tribes, and local governments – to maximize the beneficial use of dredged material from the operation and maintenance of Corps projects.

Section 8150 established the Non-Federal Interest Advisory Committee to develop and make recommendations to the Secretary of the Army and the Chief of Engineers for more effective and efficient delivery of water resources development programs.

Section 8204 directed the Corps to conduct an assessment of the volume of sediment in Corps reservoirs, including a quantification of lost reservoir storage capacity and an evaluation of how that affects the allocated storage space for authorized purposes. The bill authorized \$10M in appropriations.

Section 8237 directed the Corps to assess whether good neighbor agreements to provide non-federal services on Corps lands – such as forest, rangeland, and watershed restoration services as defined in 16 U.S.C. 2113a – would be in the best interest of the United States as well as the neighboring states, tribes, and local communities.

Section 8303 expanded the previous directive to the Corps in WRDA 2020 (Section 157) to report on additional opportunities for utilizing forecast informed

reservoir operations (FIRO). The original directive included the Upper Missouri River Basin and the North Platte River Basin; this bill added the Apalachicola Chattahoochee Flint River Basin.

Section 8309 authorized the Corps to study the feasibility of a project in the Columbia River Basin to reduce reliance on Canada for flood risk management.

Section 8388 amended WRDA 2014 regarding surplus water contracts and water storage agreements for the Upper Missouri Mainstem Reservoirs by removing the 10-year sunset provision. Section 8389 amended the Water Supply Act (43 U.S.C. 390b(b)) regarding annual state or local reimbursement of operation and maintenance costs for municipal and industrial water supply storage in Corps facilities.

Section 8390 amended the provisions of 33 U.S.C. 2336 regarding technical assistance from the Corps to address water quality problems caused by abandoned and inactive non-coal mines. The bill expanded the lands eligible for the 50% cost share waiver to include lands held in trust for tribes. It updated the name and location of the Restoration of Abandoned Mine Sites Program managed by the Corps' Albuquerque District Office. It also increased the authorized appropriations from \$30M to \$50M.

WATER RESOURCES **Upper Colorado River Basin**

On December 13, the Upper Colorado River Commission (UCRC) met in Las Vegas, Nevada in conjunction with the Colorado River Water Users Association (CRWUA) meetings. Tanya Trujillo, Assistant Secretary of the Interior for Water and Science spoke briefly, recognizing "these particularly trying times," and introducing President Biden's newly appointed UCRC federal chair, Anne Castle (formerly in Tanya's position under President Obama). Castle addressed the large group saying, "We are gathered here today at a time of unprecedented crisis in the basin.... I am committed to being as helpful as I can to achieve sustainable and equitable solutions in the basin. There is a huge imbalance in supply and demand, and the forecast for this winter not good news."

Castle continued, "The gap between supply and demand is so great that no one basin, no one state, no one sector can solve it. "The real enemy here is not another basin, or another state or alfalfa or golf courses. It is climate-change-induced lower flows. It's not an enemy that we can defeat. It is one that we have to learn to live with." She highlighted recent engagement with tribes, and concluded quoting Will Rodgers, a member

of the Cherokee Nation, "In times of crises, people need to know that you care, more than they care what you know."

U.S. Bureau of Reclamation Commissioner Camille Calimlim Touton also addressed the meeting. She noted the celebration of the 120th anniversary of 1902 Reclamation Act. The Bureau has 189 projects in 17 states and is the largest deliverer of water nationwide, and second largest hydropower producer. Reclamation serves water to nearly every major metropolitan area in the West, and delivers water to 1 in 5 farmers west-wide. She declared "We see challenges across the West that are the same as in the Colorado River Basin."

She observed that last water year in the Upper Colorado River Basin the snow water equivalent was 90% of average and total precipitation was 99% of average, but runoff into Lake Powell was only 50%, due to dry soils. She added Reclamation is taking unprecedented actions, and partnerships with the States and tribes have made this possible. We will, "Get through what we see now and into the future."

She referred to an Amendment to the 2022 Drought Response Operations Plan (DROA), with which UCRC concurred in a December 1 letter. However, in the same letter, UCRC Commissioners "...noted significant uncertainty regarding the proposed increases in releases from Lake Powell in the summer of 2023 stemming from uncertain hydrology, the potential for Drought Response Operations in 2023, and potential impacts from the Supplemental EIS [Environmental Impact Statement] process underway by Reclamation." Touton added the Inflation Reduction Act (IRA) included \$500M for Upper Basin projects and programs.

Each UCRC State Commissioner provided a brief report. Becky Mitchell, Colorado, noted that physical water scarcity dried up 203,000 irrigated acres in 2021 (or 28%). Estevan Lopez, New Mexico, said San Juan-Chama project water was down 40%. Gene Shawcroft added that Utah is investing in conservation, reuse and desalination. Brandon Gephardt reported that Wyoming fallowed around 175,000 acres in 2021, and a Governor's Colorado River Working Group was formed. Chuck Collum gave his Executive Director's report.

PEOPLE

Colorado Governor Jared Polis has appointed **Jojo La**, Interim Administrator, Water Quality Control Commission as an alternate member to the WSWC replacing **Jeremy Neustifter**, who has resigned. We congratulate Jojo on her appointment and look forward to working with her.

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.