



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS **Foundation/Leadership Institute**

The Western Governors' Foundation (WGF), the philanthropic arm of the Western Governors' Association (WGA), has announced that applications are now being accepted for the 2024 Western Governors' Leadership Institute (WGLI). Every year the foundation selects young adults to represent their states, territories, and tribes as institute delegates. Delegates attend the Annual Meeting of the Western Governors' Association, as well as a one-day leadership development forum. The foundation covers all expenses associated with delegate participation. For further information, including eligibility, and how to apply, please see: <https://westgov.org/foundation/wgli/2024-western-governors-leadership-institute>.

ADMINISTRATION **5th National Climate Assessment Report**

On November 14, President Biden announced the release of the 5th National Climate Assessment (NCA5), as well as more than \$6B in climate resilience investments, including \$100M for western water infrastructure upgrades. Biden said the NCA5 lays out threats and dangers, but also shows solutions within reach. "It takes time for the investments we're making to be fully materialized. But we just have to keep at it. We need to do more and move faster, and we have the tools to do it." www.whitehouse.gov

The U.S. Global Change Research Program (USGCRP) reports to Congress approximately every five years. Participating federal agencies include the Departments of Agriculture (USDA), Commerce, Defense, Energy, Health and Human Services, Homeland Security, Interior (DOI), State, Transportation, as well as the Environmental Protection Agency (EPA), the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), the Smithsonian Institution, and the U.S. Agency for International Development (USAID).

The report covers various current and future climate risks, including those to water quality and water resources, and provides a chapter on each of ten

regions, including Alaska, the Northwest and Southwest, and the Northern and Southern Great Plains. <https://nca2023.globalchange.gov/>

The USGCRP is hosting a series of webinars from November through March to discuss the findings of the various chapters and regions of the NCA5. The webinar on water will be held December 4. <https://www.globalchange.gov/events?topic%5B135%5D=135>

CONGRESS **House/Water Data/Infrastructure**

On November 14, the House Natural Resources Subcommittee on Water Wildlife and Fisheries held a hearing to consider four bills relating to water data and infrastructure: the Water Data Improvement Act (H.R. 5770); the Southwestern Power Administration Fund Establishment Act (H.R. 4219); the Urban Canal Modernization Act (H.R. 6107); and the Modernizing Access to Our Public (MAP) Waters Act (H.R. 6127).

The Water Data Improvement Act reauthorizes two U.S. Geological Survey (USGS) programs, the Federal Priority Streamgauge Program (FPS) and the National Groundwater Resources Monitoring Program (NGWMN), through FY2028 at existing funding levels. The FPS program administers monitoring stations that track the amount of water in streams and rivers across the country. The NGWMN program administers a network of wells that provide data to the public on the health of groundwater supply and quality in different geographic areas. Under H.R. 5770, both programs are authorized for appropriation of "such sums as are necessary" through 2023, provisions which will need to be addressed before the bill is ready for markup.

The USGS statement recommended updates to the bill that would better authorize and represent the programs. The recommendations included the addition of "precipitation" as a type of sensor to be included at FPS sites, "temperature" as an aspect of water-quality monitoring, and tribes as one of the entities with which USGS can partner.

Bill sponsor Rep. Joe Neguse (D-CO) called the water data programs crucial for monitoring and assessing water resources nationwide. He said: "The Colorado River is at a crisis point. The federal government, states, tribes, and water users are currently engaging in the negotiations on the future of the Colorado River, including the draft proposals recently released by the Bureau of Reclamation. As we continue to look for ways to support our communities and to address the drought crisis, both in the West and across the Nation, it is critical that we provide agencies with the resources they need. And that is exactly what the Water Data Improvement Act is all about."

The Southwestern Power Administration Fund Establishment Act would establish a permanent, self-financed revolving fund supplied through Southwestern's owner sales receipts with no annual appropriations.

The Urban Canal Modernization Act would authorize the Bureau of Reclamation (USBR) to help irrigation districts with transferred works address extraordinary operation and maintenance needs for canals that could pose risks to surrounding communities in the case of failures. USBR would be able to fund work on eligible canals up to 35% on a nonreimbursible basis.

The MAP Waters Act would direct federal land and water management agencies to standardize waterway outdoor recreation databases. Such agencies would digitize and publish geographic information system (GIS) mapping data that includes federal access details such as restriction zones, regulation requirements, access and navigation points, and fishing allowances. The interoperability of recreational data between agencies would ensure that hunters, anglers, and all recreational users can more easily find information and resources to help facilitate access to public waters.

Water Resources Development Act/Infrastructure

On November 29, the Senate Committee on Environment and Public Works held a hearing on the 2024 reauthorization of the Water Resources Development Act (WRDA). The hearing examined stakeholder feedback on the challenges posed by project partnership agreement (PPA) requirements. Witnesses included Kirsten Wallace, Interstate Council on Water Policy (ICWP), Jimmy Hague, the Nature Conservancy, and Bren Haase, Coastal Protection and Restoration Authority Board.

Authorized by WRDA, PPAs are agreements between the Corp and a non-federal sponsor to establish cost-sharing responsibilities in the construction of a water resources project. Sections 9 of WRDA 1974 and

103(j) of WRDA 1986, require that the non-federal sponsor of a Corps project must "hold and save the United States free from damages due to the construction or operation and maintenance of a project, except for damages due to the fault or negligence of the United States or its contractors." Under this provision non-federal sponsors assume financial responsibility beyond the period of the project indefinitely.

Wallace said that indemnifying the federal government in an agreement is in direct conflict with as many as 22 state constitutions and laws, including Colorado, Idaho, New Mexico, North Dakota, South Dakota, and Texas. "Many state constitutions preclude agencies from obligating funds without an encumbrance against an appropriation and do not allow for incurring any indebtedness of any nature on behalf of the state until an appropriation for it has been made by the legislature." She testified that the transient nature of river ecosystems guarantees a change in management needs. Extending obligations beyond the period of analysis and project life "essentially creates a permanent federal hold on non-federal property." She recommended that Congress remove or modify the provision to "create a more equitable approach to sharing risk.... not to free non-federal entities from liability but rather to have the Corps share in that liability."

Hague also testified in support of PPA reform. He emphasized non-federal partners already shoulder a 35% cost share, 100% of operations, maintenance, repair, rehabilitation, and replacement (OMRR&R), and the burden of securing increased funds if costs exceed the original authorization. The uncertainty of either ceasing production, covering the costs, or seeking increased authorization through congressional action is often too much risk for non-federal partners to assume. Hague recommendations included: (1) changes to the "hold and save" clause; and (2) changes to the Flood Control Act of 1970 to authorize the Corp to credit donated materials to the non-federal partner's required cost-share amount.

PEOPLE

WSWC Member **Tim Davis**, has accepted a new position as the Deputy Commissioner, Office of the Great Salt Lake Commissioner. Tim previously served as the Director, Utah Division of Drinking Water. Prior to coming to Utah, he oversaw the water rights, water resources, drinking water and water quality programs for the state of Montana. He led the Water Quality Division at Montana Department of Environmental Quality and the Water Resources Division at the Montana Department of Natural Resources and Conservation. Tim also served as the Chair of the WSWC. We congratulate Tim on his new position.

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.