



## WESTERN GOVERNORS' ASSOCIATION

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May 7, 2013

Honorable Barbara Boxer  
Chair  
U.S. Senate Committee on Environment & Public Works  
410 Dirksen  
Washington, D.C. 20510

Dear Senator Boxer:

On behalf of the Western Governors' Association (WGA), we wish to commend the Senate Environment and Public Works Committee for its leadership in advancing legislation to reauthorize of the Water Resources Development Act (WRDA). We strongly support Congressional reauthorization of this law which is so important to the West.

The responsible development and management of water resources is particularly critical for the Western states. Our region routinely faces both scarcity issues, as in last year's Central Great Plains drought, and very real flood management challenges, as evidenced during the devastating flooding in the Upper Missouri Basin in 2011.

Whether for drought, flooding, or simply general allocation, proper water management is essential. WGA believes reauthorization of WRDA is critically important to the West in managing all of those issues.

In addition to thanking you and your Committee colleagues for the attention you have given the issue through advancement of the "*Water Resources Development Act of 2013*" (S. 601), we wish to provide our input on several issues included in S. 601 that have particular consequences for the West:

### **Water Resources Studies (Upper Missouri Basin Flood and Drought Monitoring) Section 5008**

Section 5008 would establish a flood and drought monitoring program in the Upper Missouri River Basin, something that is sorely needed given the floods of 2011 and the current drought. The Western Governors support this provision of WRDA in accordance with WGA

Policy Resolution 11-7, which encourages prioritization of the nation's water measurement and monitoring data networks, particularly for drought planning.

**Levee Safety** *Section 6003*

Section 6003 would create a national levee safety program. While the Western Governors generally support the development of such a program, we do not believe that it should apply to federal or non-federal water supply canals. There are major differences between levees and water supply canals, as well as the stakeholder communities and interests they serve, that warrant treating them separately. In particular, the problems associated with water supply canals do not typically involve a lack of engineering expertise or design standards, but rather the ability to finance necessary improvements. Moreover, the Bureau of Reclamation (Reclamation) already has authority to address the safety issues associated with the canals it owns under the Aging Water Infrastructure and Maintenance Act. As such, states and Reclamation are best positioned to address the public safety issues presented by water supply canals, which are highly localized and relatively minor, compared to inadequately designed and maintained levees.

The Western Governors request that Congress ensure that the levee safety program does not apply to federal and non-federal water supply canals.

**Project Delivery and Dam Operation** *Sections 2015 and 2014*

Sections 2015 and 2014 do not contain language recognizing and protecting states' interests and rights in water management that are recognized in previous legislation. Without this specific language, there is concern the U.S. Army Corps of Engineers (Corps) can change requirements and not recognize state water rights.

Section 2015 would require Congressional authorization for allocations or reallocations of storage water for municipal or industrial water supply at Corps or Reclamation reservoirs, if the total cumulative amount allocated would exceed five percent of the reservoir's "conservation storage." This provision could create unintended consequences for western Corps and Reclamation reservoir operations, including possible limitations or prohibitions on water supply allocations at projects where the five percent cap has already been exceeded or at flood control projects that do not include conservation storage. We are also concerned that the provision might adversely impact state primacy over water allocation, or unduly limit efforts to make the highest and best use of existing reservoirs. The section's broad language may even be interpreted to prevent the adjustment of reservoir operations to respond to emergencies, such as drought or flooding.

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Page 3

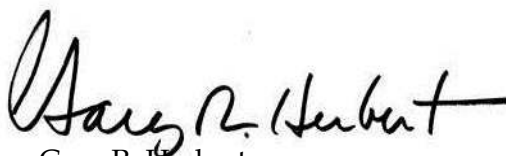
The Western Governors urge you to provide an exemption for the operation of western reservoirs from this section. Failing that, we would urge that you remove Section 2015 in its entirety.

Section 2014 authorizes the Corps to operate dams for "other related project benefits," so long as project purposes are not "adversely impacted." Although it is stated that activities may not adversely impact any other authorized purposes of the project, this section may provide the Corps the authority to favor one authorized purpose over the other. Furthermore, the Section does not clearly define whether "other related project benefits" may reach outside the current authority of the Corps for specific projects. Recent proposals to enhance Mississippi River navigation through changes to the Missouri River system raise concerns for Western states in the Upper Missouri Basin. Water released from the Missouri Basin to the Mississippi may not be recaptured in drought years; on the other side of the coin, holding back water in the mainstem reservoirs to enhance flood control for the Mississippi River during early spring may reduce flood control capabilities within the Missouri River basin for summer flows.

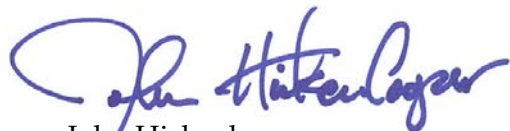
The Western Governors ask that, at a minimum, Section 2014 include clear bill language that the Missouri River Mainstem System is not operated to support Mississippi River navigation because flow support for the Mississippi is not an authorized purpose of the Pick-Sloan projects.

On behalf of the WGA, thank you again for your leadership on this matter. We hope you will consider WGA a resource on this and future water resource-related matters.

Sincerely,



Gary R. Herbert  
Governor, State of Utah  
Chairman, WGA



John Hickenlooper  
Governor, State of Colorado  
Vice Chairman, WGA