



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **WESTERN GOVERNORS' ASSOCIATION 2010 Annual Meeting - Whitefish, Montana**

The Western Governors' Association (WGA) held its 2010 Annual Meeting on June 26-28, in Whitefish, Montana. Entitled "100 Years of Common Ground," the meeting commemorated the first time the western governors met to discuss natural resources issues in 1910. It focused on managing water and energy demands while protecting water supplies, landscapes, and wildlife. The Governors of Colorado, Idaho, Montana, New Mexico, Nevada, Oklahoma, South Dakota, Utah, Washington, and Wyoming attended. During the meetings, the governors re-adopted resolutions on the negotiated settlement of Indian water rights claims, federal non-tribal fees in general water adjudications, cleanup of abandoned hardrock mines, and implementation of the Endangered Species Act. They also adopted a resolution commenting on the use of hydraulic fracturing for oil and natural gas recovery, and the need to protect drinking water supplies.

The governors approved their 2010 Annual Report, which acknowledges WSWC efforts saying: "Two reports – 'Water Needs and Strategies for a Sustainable Future' and a subsequent 'Next Steps' report – developed by WGA and its affiliate, the Western States Water Council, continue to guide WGA's water program activities. In addition, they've become an essential reference to federal agencies and water managers across the West and in the nation's capital. More than once, officials in Washington have held up dog-eared copies of the reports to acknowledge their value and utility." Separately, a WSWC 2010 Progress Report on implementation of both reports was also accepted.

With respect to climate change, the governors adopted a scoping report that emphasizes the need for state and federal agencies to work together to identify key science needs that are western-specific and begin to share and implement smart adaptation practices. The report was prepared by a WGA Climate Adaptation Work Group to address appropriate uses of climate adaptation modeling to inform natural resources, economic and infrastructure planning and policies, as well as identify and fill existing gaps in WGA climate adaptation efforts. The Climate Adaptation Work Group consists of western state experts in air, forests, wildlife and water, including WSWC members and staff.

\_\_\_\_ The opening plenary session also focused on water management challenges and opportunities. WGA Chair and Montana Governor Brian Schweitzer (D) reported that demand for water across the West is beginning to outstrip supplies and said, "As a region, we have to become more aggressive and a lot smarter in how we manage this resource." WGA Vice Chair Butch Otter (R-ID) said, "Although water may go to the higher-value uses through market transfers, we need to make sure we protect agricultural communities and economies, the environment and food security." Bureau of Reclamation Commissioner Mike Connor discussed Department of the Interior priorities. He said the WaterSMART Initiative is an example of how the federal government can "...work with the states and other parties to find solutions for the future." Of note, Susan Cottingham, a WSWC member and Montana Reserved Water Rights Compact Commission Program Director, discussed the need to increase appropriations for authorized Indian water rights settlements, saying, "It is clear that if funding cannot be found these incredible settlements cannot be finalized." For more on the meetings, see: <http://westgov.org>.

### **CONGRESSIONAL UPDATE/WATER QUALITY America's Commitment to Clean Water Act**

\_\_\_\_ On June 22, Representatives Doc Hastings (R-WA), Frank Lucas (R-OK), and Sam Graves (R-MO) sent a letter to Rep. James Oberstar (D-MN), Chair of the House Transportation and Infrastructure Committee and other Democratic leaders asking for hearings on H.R. 5088, the "America's Commitment to Clean Water Act." The bill, which Oberstar introduced, seeks to overturn the Supreme Court's SWANCC and Rapanos decisions by replacing the term "navigable" in the Clean Water Act (CWA) with "waters of the United States." The letter said the bill would have "...a great impact on Western irrigation projects, farming and ranching operations, mining, and small businesses.... At a time when creating and protecting jobs should be our top priority, we need to gain a full understanding of the effects that this bill will have on the economies of rural communities and the nation as a whole.... Unfortunately, no hearings have been scheduled on H.R. 5088 during the 2<sup>nd</sup> Session of the 111<sup>th</sup> Congress to debate this legislation. In fact, according to the Bureau of National Affairs, a Democrat majority staff member has explicitly stated 'no hearings would be held.' This is disconcerting and we hope it is not indicative of how this bill will be considered and

debated in this body.... We stand ready to work with you to ensure that the voice of the people is heard on this legislation.” To read the letter, please see: <http://republicans.resourcescommittee.house.gov/News/DocumentQuery.aspx>. (WSW #1876)

### **Clean Water Act/Stormwater/Columbia River Basin**

On June 30, the Senate Environment and Public Works Committee approved a number of water quality-related bills. One would amend Section 313 of the CWA to require the federal government to pay local stormwater fees (S. 3481). Senator Benjamin Cardin (D-MD) introduced the bill in response to federal written opinions that rebuffed or left ambiguous the need for federal agencies to pay these fees. In the West, the Government Accountability Office (GAO) issued a 2006 opinion that concluded surface water management fees assessed by the State of Washington’s King County against National Forest Service lands and property were really a local tax. Since the federal government is constitutionally immune from state and local taxation, the GAO said appropriated funds were not available to pay the fees. The bill addresses this issue by stating that stormwater fees “..shall not be considered to be a tax or other levy subject to an assertion of sovereign immunity; and may be paid using appropriated funds.” Washington Senators Patty Murray (D) and Maria Cantwell (D) co-sponsored the bill.

Three other bills aimed at protecting various water bodies in the West include: (1) the Columbia River Basin Restoration Act of 2010 (S. 3550) to authorize Environmental Protection Agency efforts to reduce toxic contamination and authorize \$33M/year for FY 2012-2017; (2) the San Francisco Bay Restoration Act to amend the CWA to establish a grant program (S. 3539); and (3) the Puget Sound Recovery Act (S. 2739) to authorize \$125M/year for five years to implement the Puget Sound Action Agenda developed by federal, state, and local stakeholders as a road map for restoration and protection efforts. For bill details, see: <http://epw.senate.gov/public/index.cfm?FuseAction=Majority.WelcomeMessage>. (WSW #1877)

### **CONGRESSIONAL UPDATE/WATER RESOURCES CEQ/Principles and Guidelines**

On July 1, seven western Congressmen sent a letter to Rep. Nick Rahall (D-WV), Chair, House Committee on Natural Resources, and Subcommittee on Water and Power Chair Grace Napolitano (D-CA), requesting an oversight hearing on the Council on Environmental Quality’s (CEQ) revision of the Principles and Guidelines (P&Gs). CEQ is conducting its revision as directed by the Water Resources Development Act of 2007 (WRDA), and issued draft P&Gs last year that are intended to apply to all federal water resources planning efforts by all agencies. The old P&Gs govern

water and related resources implementation studies for the U.S. Army Corps of Engineers and Reclamation.

“While no one disagrees that the law must be implemented, there are many questions why the Administration is seeking to expand its reach to include other agencies outside of the [Corps] and the role of these agencies in this process,” the letter said. “There are also concerns that the first draft of this effort elevates the consideration of non-structural and environmental elements over economic and human benefits and safety in the planning phase of project development. Many believe that this supersedence was never the intent of [WRDA]. For this reason, many western water interests who depend on multi-purpose [Reclamation] facilities and irrigation projects are concerned that the Obama Administration’s new draft standards will undermine efforts to rehabilitate current projects and that some future water projects will never come to fruition.”

The letter continues: “We simply believe that it is possible to balance the needs of humans and the environment when it comes to protecting and promoting traditional water infrastructure (including dams, clean and emissions-free hydropower, irrigation canals, river navigation aids and levees). For over a century, these projects have provided benefits to millions of Westerners and affordable food for Americans nationwide. An examination of the impacts of the proposed [P&Gs] is not only necessary for these successes to continue but is one of the most important oversight responsibilities of this Congress.” Republican Representatives Doc Hastings (WA), Tom McClintock (CA), Rob Bishop (UT), Cathy McMorris Rodgers (WA), Adrian Smith (NE), Jason Chaffetz (UT), and Mike Coffman (CO) signed the letter. Contact the WSWC for a copy. (WSW #1855)

### **WATER RESOURCES** **Nebraska/Republican River**

Nebraska’s Republican River Basin Water Sustainability Task Force met for the first time on June 23. The Task Force was authorized by a bill (LB 1057) passed by the state’s unicameral Legislature last session to develop consensus from basin leaders on several water management issues in the Republican River Basin, including development of a plan for water sustainability in the basin. The Task Force, which will terminate at the end of the 2011-2012 fiscal year, is comprised of 22 members appointed by Governor Dave Heineman, including representatives from the Nebraska Departments of Agriculture and Natural Resources and basin representatives. The Legislature will also appoint four non-voting state senators. Governor Heineman declared, “In the long-term, the State of Nebraska needs to develop sound water management strategies for the Republican River that will benefit future generations.” [http://www.governor.nebraska.gov/news/2010/06/21\\_rpub\\_river.html](http://www.governor.nebraska.gov/news/2010/06/21_rpub_river.html). (WSW #1887 and #1834)

**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.**