

**Written Testimony of James D. Ogsbury, Executive Director
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**Submitted to the United States Senate
Committee on Appropriations
Subcommittee on Energy and Water Development
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Fiscal Year 2023 Appropriations

Chair Feinstein, Ranking Member Kennedy, and Members of the Subcommittee, the Western Governors' Association (WGA) appreciates the opportunity to provide testimony on the appropriations and activities of the federal agencies under the Subcommittee's jurisdiction, including the Department of Energy (DOE), Federal Energy Regulatory Commission (FERC), Bureau of Reclamation (BOR), and U.S. Army Corps of Engineers (Corps). WGA is an independent organization representing the Governors of the 22 westernmost states and territories. It is an instrument of the Governors for bipartisan policy development, information sharing and collective action on issues of critical importance to the western United States.

The agencies within the Subcommittee's jurisdiction wield significant influence over the American West and the development of energy and water resources in the region. Western Governors recognize the importance of a close and productive working relationship between states and the federal government and understand that more effective intergovernmental cooperation depends on federal recognition of states as co-sovereigns and partners. The promotion of a greater partnership between states and the federal government is central to the mission of WGA and is reflected in WGA Policy Resolution 2021-01, Strengthening the State-Federal Relationship. WGA Policy Resolutions 2022-01, Energy in the West; 2021-10, Water Resource Management in the West; and 2021-08, Water Quality in the West, communicate Governors' collective perspectives on energy and water policy priorities and infrastructure needs.

State Authority Over Water Resources: States possess the primary legal authority for the allocation, management, protection and development of water resources within their borders. Congress and the federal judiciary have consistently and expressly recognized, and deferred to, this state authority. Federal policy must respect and preserve state authority to manage water, as well as recognize state law and the financial, environmental and social values of water resources to citizens of the western states.

States have exclusive authority over groundwater within their borders and are primarily responsible for protecting, managing, and otherwise controlling the resource. WGA encourages the Subcommittee to prohibit the use of appropriated funds for any activity that would, or has the potential to, usurp state authority over groundwater resources. The federal government has long recognized the right to use water as determined under the laws of the various states. Federal agencies must work with the states to address any groundwater-related needs and concerns, and Western Governors value federal agencies' operating within this established legal framework.

Water Data: Western states need reliable information on the status, trends, and projections of water availability. Western Governors support funding for improved predictive and adaptive capabilities for extreme weather variability, including sub-seasonal and seasonal precipitation and water supply forecasting. Forecasting improvements will support better water management decision making. Data collection, monitoring, and communication is most effective when coordinated across federal agencies and with state agencies.

Water Infrastructure: The need for new water projects, as well as improvements to aging water, wastewater and hydropower facilities, is becoming increasingly urgent. Infrastructure investments are essential to our nation's continued economic prosperity, electric generation capacity, and environmental protection. The Subcommittee should continue to fully use receipts accruing to the Reclamation Fund for their intended purpose: the conservation, development, and use of resources to meet western water-related needs. Western Governors support the construction of congressionally authorized BOR rural water projects and facilities that are part of congressionally-authorized Indian water rights settlements.

Western Governors emphasize the important functions of BOR's WaterSMART Program and the Corps' Planning Assistance to the States Program, which support investments in modern water delivery infrastructure and comprehensive water resources planning, respectively. Western Governors encourage the Subcommittee to fully allocate western water infrastructure funds authorized by the Infrastructure Investment and Jobs Act (IIJA, Pub. L. 117-58) to promote projects addressing water storage and conveyance, drought resiliency, and water recycling and reuse. The Subcommittee can promote greater investment in water infrastructure by using such tools as loan guarantees, revolving funds, infrastructure banks, water trust funds, and the Water Infrastructure Finance Innovation Act (WIFIA) program. Western Governors urge that capital budgeting and asset management principles be used to determine funding priorities based on long-term sustainability and not annual incremental spending choices.

Aquatic Invasive Species: The spread of invasive quagga and zebra mussels continues to be a major threat to western water resources. The containment of these invaders in infested waters in the West depends upon the collaboration and cooperation of federal, state and local agencies. Many state-led containment programs benefit from federal cooperation and funding. Western Governors request that the Subcommittee provide BOR with the necessary funding to collaborate with western states to contain the spread of aquatic invasive species.

Waste Isolation Pilot Project: Continued funding for DOE's Waste Isolation Pilot Plant (WIPP) Transportation Safety Program is essential to the cleanup and disposal of transuranic (TRU) waste from U.S. nuclear weapons complex facilities in western states, including Idaho National Laboratory, Los Alamos National Laboratory in New Mexico, Lawrence Livermore National Laboratory in California, and the Hanford Site in Washington. DOE must continue to provide sufficient and timely in-kind, financial, technical and other appropriate assistance to states and tribes through whose jurisdiction TRU waste will be transported. The safe and uneventful transportation of TRU waste is a priority of Western Governors, and WGA encourages the Subcommittee to provide adequate funding to ensure that the important work of the WIPP Transportation Safety Program continues.

Energy: Energy generation and delivery systems are undergoing rapid, significant change across the West. The IJA included many provisions that will help western states and communities invest in innovative energy technologies, promote grid infrastructure resilience, and respond to a growing cyber threat landscape. Western Governors encourage the Subcommittee to support new and existing programs focused on investments in grid infrastructure hardening and weatherization technologies, vegetation management in utility corridors, the undergrounding of electrical equipment, and enhanced cybersecurity defense systems for electricity providers.

Western Governors support a variety of federal programs that promote energy systems planning, energy efficiency upgrades, and the adoption of innovative energy technologies in rural areas. Western Governors encourage the Subcommittee to provide adequate funding for the State Energy Program (SEP), Rural Energy for America Program (REAP), Weatherization Assistance Program (WAP), and Low-Income Home Energy Assistance Program (LIHEAP). The SEP is key for states to effectively implement IJA provisions focused on planning for transmission and distribution infrastructure and transportation electrification infrastructure. In addition, Western Governors encourage the Subcommittee to provide DOE and FERC with additional support to enhance staff and resource capacity to conduct transmission infrastructure environmental review and permitting activities.

Western Governors are committed to making make the West an international hub for new energy technology and request that the Subcommittee fund research, development, demonstration, and deployment of advanced energy and energy storage technologies, including battery, hydrogen, pumped hydropower, and compressed air. DOE's National Laboratories serve a crucial role in energy research and development across the West. Western Governors also note the importance of emerging tools and technologies that address barriers to mineral supply chain reliability, including technologies that help recycle or reuse existing critical mineral resources, and encourage the Subcommittee to support DOE programs focused on critical mineral and battery manufacturing, processing, and recycling.

Congress should refrain from advancing the interim storage of commercial nuclear waste through the appropriations process without requiring the consent of affected Governors.

Western Governors emphasize the importance of permitting and completing infrastructure projects on efficient timelines. Leveraging existing rights-of-way or collocating projects along linear infrastructure assets can help support permitting and environmental review efficiencies. Western Governors encourage the Subcommittee to support strategies that improve coordinated permitting and environmental review practices across ownership boundaries. Western Governors and federal agencies deal with a complex web of interrelated energy and water resource issues. It is an enormous challenge to judiciously balance competing needs and Western Governors appreciate the difficulty of the decisions this Subcommittee must make. The foregoing recommendations are offered in a spirit of cooperation and respect, and WGA is prepared to assist you as the Subcommittee discharges its critical responsibilities.