

**Written Testimony of James D. Ogsbury, Executive Director
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**Submitted to the United States Senate
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
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Fiscal Year 2021 Appropriations

Chairman Murkowski, Ranking Member Udall, and Members of the Subcommittee, the Western Governors' Association (WGA) appreciates the opportunity to provide written testimony on the appropriations and activities of the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), U.S. Forest Service (USFS) and Environmental Protection Agency (EPA). WGA is an independent organization representing the Governors of the 22 westernmost states and territories. The Association 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 vast areas of the American West. Ninety-four percent of all federal lands are in the western states, and the federal government owns over 46 percent of the land within active WGA states. The work of this Subcommittee is of vital importance to Western Governors, as it affects public lands management and federal agency interaction with other levels of government and the public.

There is a natural tension between state and federal governments that is embedded in the fabric of the U.S. Constitution. These sovereign governments must have a close and productive working relationship to promote efficiency and maximize returns on taxpayer investments. Improving the partnership between states and the federal government is central to the mission of WGA and is reflected in WGA Policy Resolution 2020-01, *Strengthening the State-Federal Relationship*.

In last year's House committee report accompanying the Interior, Environment, and Related Agencies Fiscal Year (FY) 2020 appropriations bill (H.Rpt. 116-100), the federal agencies funded by the Interior bill were directed to provide appropriate feedback on tribal input received by agencies through meaningful consultation in their decision-making processes. Similar direction to federal agencies for government-to-government consultation with states, which is required pursuant to Executive Order 13132, Federalism, would improve the co-sovereign relationship between states and the federal government.

WGA continues to create opportunities for a more productive state-federal relationship. For example, Governors are proud of the 2018 Shared Stewardship Memorandum of Understanding (MOU) between WGA and the U.S. Department of Agriculture (USDA). The MOU has allowed Western Governors and USDA to collaboratively engage on several cross-boundary, cross-jurisdictional concerns, including post-wildfire interagency coordination, cheatgrass infestations, and vegetation management in utility corridors. This has also led to

positive engagement between individual states and the agency: USDA has now executed Shared Stewardship agreements with 12 states, 8 of which are within the WGA footprint. These agreements provide states a useful tool to discuss land management priorities with USDA and coordinate on priority management projects across a broad range of needs, from wildfire mitigation to habitat improvement to watershed protection.

Responsible land management can only occur when federal, state and local stakeholders collaborate to improve the health and resilience of our lands. Likewise, proactive fish and wildlife conservation is most effective when leveraging the cooperative efforts of state and federal officials across multiple disciplines. To this end, WGA is working with a variety of federal partners, including FWS, BLM, the USDA Natural Resources Conservation Service, and stakeholder and private landowner groups to promote collaboration on a wide range of conservation and habitat improvement activities.

States possess primary authority to manage most fish and wildlife within their borders, and they receive economic benefits associated with healthy species and ecosystems. At the same time, species listings can dramatically affect the efforts of western states to promote economic development, accommodate population growth, and maintain and expand infrastructure. Western Governors believe that states should be full partners in the implementation of the Endangered Species Act (ESA). The Act is premised on a strong state-federal partnership: section 6(a) of the ESA states that “[i]n carrying out the program authorized by the Act, the Secretary shall cooperate to the maximum extent practicable with the States.” WGA submits that such cooperation should involve meaningful opportunities for states to comment, participate, or undertake proactive measures before the federal government takes action under the ESA.

The FY20 Senate Interior, Environment, and Related Agencies Appropriations committee report (S.Rpt. 116-123) directed federal land managers to use state fish and wildlife data to inform land use, land planning and related natural resource decisions and encouraged federal agencies to coordinate with WGA on collaborative conservation efforts benefiting wildlife and habitat. Western Governors are deeply appreciative of this commitment to promote a positive relationship between the states and the federal government with the use of data while respecting the limitations of state data privacy laws. Federal managers need data-driven science, mapping and analyses to effectively manage wildlife species and habitat and, in many cases, states generate the best available wildlife science. Western Governors encourage continued coordination between federal and state agencies on data collection to avoid spending scarce resources on duplicative collection efforts and appreciate the Subcommittee’s efforts to encourage further state-federal collaboration.

Fish and wildlife migration corridors and habitat are necessary to maintain healthy populations of species in the West. Western Governors request additional funding for federal agencies to advance state-supported programs and projects promoting voluntary migration corridor and habitat conservation. Governors note that any federal efforts to identify, regulate or conserve wildlife migration corridors through administrative or legislative action must involve coordination and consultation with states and should advance collaborative, locally driven initiatives to conserve key wildlife corridors and habitat.

WGA applauds the full funding for the Payment in Lieu of Taxes (PILT) program administered by DOI for FY20 and recommends the enactment of a permanent and stable funding mechanism for the program. PILT funding does not represent a gift to local jurisdictions; rather it provides important compensation for the disproportionate measure of non-taxable federal lands in the West. Similarly, payments under the Secure Rural Schools and Community Self-Determination Act (SRS) compensate communities whose timber industries have been negatively affected by actions and acquisitions of the federal government. Western Governors request that you continue to appropriate full funding annually for both PILT and SRS in the future.

Western Governors continue to be concerned about the number of wild horses and burros on BLM lands. This number is presently estimated to be more than triple the current Appropriate Management Level (AML). Overpopulation can degrade rangeland, negatively affecting wildlife and domestic livestock, as well as the habitat of threatened and endangered species. WGA supports a process to establish, monitor and adjust AMLs for wild horses and burros that is transparent to stakeholders, supported by scientific information (including state data), and amenable to adaptation with new information and environmental and social change.

WGA remains concerned about the spread of invasive mussels in the West and has highlighted this issue through the Western Governors' Biosecurity and Invasive Species Initiative. Of particular worry are invasive quagga and zebra mussels, which continue to be a major threat to western water resources. To combat this threat, Western Governors request that the BLM, FWS and NPS be provided with the resources necessary to implement mandatory inspection of all high-risk watercraft and decontamination of watercraft infested with quagga and zebra mussels leaving waterbodies under their jurisdiction. Outside the jurisdiction of the Subcommittee but relevant to this matter, Western Governors support legislation that would clarify federal authority to conduct inspection and decontamination procedures and manage invasive species on lands and waters under their jurisdiction.

Western Governors applaud NPS for its efforts to preserve iconic landscapes, habitats and cultural resources. WGA is concerned, however, about the significant maintenance backlog affecting National Parks. WGA appreciates the Subcommittee's efforts to address this matter in the FY20 funding cycle and encourages adequate funding in FY21 to support ongoing NPS operations and address critical infrastructure needs.

Data for water management and drought response planning is critical to western states. Western Governors request adequate funding levels for the Groundwater and Streamflow Information Program administered by the U.S. Geological Survey. The data generated by the program is integral to water supply management decisions of states, utilities, reservoir operators and farmers. It is also essential for risk management, disaster mitigation, and drought and flood forecasting throughout the West.

Infrastructure management is another crucial element of drought response, and federal investments in our nation's aging water and wastewater facilities are essential to our nation's continued economic prosperity and environmental protection. EPA'S Clean Water and Drinking Water State Revolving Funds (SRFs) provide necessary support for communities to maintain and

enhance their water infrastructure. Western Governors' Policy Resolution 2018-12, Water Quality in the West, encourages adequate funding for SRFs. Western Governors similarly support the funding of federal programs that promote non-federal water infrastructure investment, such as the Water Infrastructure Finance Innovation Act program. This important program provides flexible long-term, low-cost supplemental credit assistance for projects of national and regional significance.

States have exclusive authority over the allocation and administration of rights to groundwater located within their borders and are primarily responsible for protecting, managing, and otherwise controlling the resource. The regulatory reach of the federal government was not intended to, and should not, be applied to the management and control of groundwater resources. WGA encourages Congress to include express and unambiguous language protecting states' authority over groundwater resources in any water-related legislation, as well as clear direction to administrative agencies to respect such authority. WGA appreciates the language included by the Subcommittee in prior Appropriations Acts addressing existing statutory authorities for groundwater protection. Federal agencies should work within existing state authorities to address their groundwater-related needs and concerns. We urge you to ensure that federal efforts involving groundwater recognize and respect state primacy and comply with all statutory authorities.

States also possess delegated authority from EPA to manage air quality within their borders. Congress and EPA should recognize state authority under the Clean Air Act (CAA) and accord states sufficient flexibility to create air quality and emissions programs tailored to individual state needs, industries and economies. State CAA programs require financial support from Congress, yet funding has declined since the CAA's enactment. In addition, given the unique character of the West and the region's attainment challenges, funding should be appropriated for EPA to assist western states in research on background, interstate and transported ozone. This is especially critical as more frequent and intense wildfires are steadily reducing the West's gains in air quality improvement. Smoke from wildfires causes exceedances under National Ambient Air Quality Standards for particulate matter and ozone, negatively affecting public health, safety and transportation. Prescribed fire can reduce these effects but is currently underused in many areas due to concerns about how it may affect compliance with CAA State Implementation Plans.

Western Governors and federal land management agencies deal with a complex web of interrelated natural resource issues. It is an enormous challenge to judiciously balance competing needs in this environment, 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 in discharging these critical and challenging responsibilities.