

**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 2022 Appropriations

Chair Feinstein, Ranking Member Kennedy, and Members of the Subcommittee, the Western Governors' Association (WGA) appreciates the opportunity to provide written testimony on the appropriations and activities of the federal agencies under the Subcommittee's jurisdiction, including the Department of Energy (DOE), 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. 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 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.

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.

The following recommendations are intended to ensure that taxpayers realize a meaningful return on the investment of limited discretionary resources. This goal will be more readily achieved to the extent that federal agencies effectively leverage state authority, resources and expertise.

State Authority Over Groundwater: 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. Federal agencies must work with the states to address any groundwater-related needs and concerns. The federal government has long recognized the right to use water as determined

under the laws of the various states; Western Governors value their partnerships with federal agencies as they operate under this established legal framework.

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

Water Infrastructure: The need for new water projects, as well as for 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, and they assist states in meeting federally mandated environmental standards. 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.

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. Federal investments in infrastructure need to be supported by dedicated sources of funding and guided by appropriate financing, cost-sharing, pricing and cost recovery policies.

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 at 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 in western waters.

Waste Isolation Pilot Project: Continued funding for DOE's Waste Isolation Pilot Plant (WIPP) Transportation Safety Program is essential to the expeditious 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. This assistance is integral to planning, developing and implementing the WIPP Transportation Safety Program. 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: Western Governors support federal programs designed to: reduce reliance on oil imports by increasing North American production and improving fuel efficiency; develop renewable and alternative fuels; and increase innovation and application of energy storage. Congress should also: ensure adequate funding and resources for state emergency planning, response, and recovery; maintain 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); and provide appropriations for effective cybersecurity infrastructure, education, and workforce development programs. Congress should also refrain from advancing the interim storage of commercial nuclear waste through the appropriations process without requiring the consent of affected Governors. The Subcommittee can also help ensure that DOE and other agencies create opportunities for ongoing, substantive, and meaningful state consultation in the West-wide energy corridor process.

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 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 as the Subcommittee discharges its critical and challenging responsibilities.