



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **ADMINISTRATION/ENVIRONMENT**

#### **Environmental Protection Agency/Nomination**

Doug Benevento has been nominated by President Trump to serve as Deputy Administrator for the U.S. Environmental Protection Agency (EPA). Benevento joined EPA in 2017 as Region 8 Administrator. In 2019, he moved to agency headquarters and served as Senior Counsel for Regional Management and State Affairs, and most recently as Associate Deputy Director. EPA Administrator Andrew Wheeler said: "I have known and worked with Doug for many years and he is uniquely qualified for this important position. I have the utmost confidence that he will succeed in helping me advance President Trump's agenda and the agency's mission of protecting human health and the environment."

A number of state officials congratulated Benevento on his nomination. Shaun McGrath, Director, Montana Department of Environmental Quality and former EPA Region 8 administrator said: "We commend the choice of Doug Benevento for the Deputy Administrator role.... He understands well the needs of states, particularly in the West, and he has been a collaborative partner in our dealings." Jon Niemann, Chair, Texas Commission on Environmental Quality, said: "I have appreciated Doug's responsiveness to states' issues and Texas looks forward to working with him in his new role."

Ken Wagner, Oklahoma Secretary of Energy and Environment, said: "Oklahoma is thrilled with the nomination of Doug Benevento.... His common sense approach, along with a history of leading a state environmental agency, a US EPA Region, years as a Hill staffer, successful career in the private sector, and his time at headquarters make him uniquely qualified to serve as Deputy to Administrator Wheeler." Todd Parfitt, Director of the Wyoming Department of Environmental Quality said: "[Doug] demonstrated his knowledge of complex environmental challenges in Wyoming while he was the Region 8 Administrator. It will be nice to have someone who understands western issues..."

Bill Owens, former Colorado Governor, said: "Doug's nomination as Deputy EPA Administrator is good news for the country. His time in my Administration running the Department of Public Health and Environment demonstrated his commitment to

environmental protection. Perhaps more importantly he will bring a western perspective to EPA."

### **ADMINISTRATION/WATER RESOURCES**

#### **Bureau of Reclamation/California**

On February 19, President Trump signed a Presidential Memorandum on Developing and Delivering More Water Supplies in California. He was joined by U.S. Department of the Interior Secretary David Bernhardt, U.S. Bureau of Reclamation (USBR) Commissioner Brenda Burman, and U.S. Fish and Wildlife Service (USFWS) Director Aurelia Skipwith. The memorandum integrates a new framework outlined in an updated Plan of Operations for the Central Valley Project (CVP) and the California State Water Project (SWP) and new Record of Decision (ROD) issued on February 19, in response to a prior Presidential memo dated October 19, 2018 (Promoting the Reliable Supply and Delivery of Water in the West). The new memo directs Interior and the Department of Commerce to continue to work together to "modernize our Federal western water infrastructure to deliver water and power in an efficient, cost-effective way," but also do more to "build upon the success of the Plan and ROD by supplementing those operations...to make deliveries of water more reliable and bountiful." It specifies implementation of provisions in the Water Infrastructure Improvements for the Nation (WIIN) Act focused on developing water storage and improving regulatory certainty, full implementation of recent changes to the Endangered Species Act (ESA) regulations, and to provide quarterly updates on progress to the Chair of the Council on Environmental Quality.

"President Trump told us to make water in the west more reliable, and the Bureau of Reclamation is doing just that," said Burman. "Working with partners in California, and using the best available science, we will implement new biological opinions to modernize [CVP] operations. We've worked hard with our partners to get here, but President Trump has called on us today to do more, so we'll be out there every day with our partners working to make sure farms, families, communities and fish and wildlife have the water they need to thrive."

The ROD issued by USBR approves the preferred alternative, which will "better integrate ESA compliance actions and water supply operations through an

operational plan that improves Reclamation's flexibility to manage the CVP, and best meets the authorized Project purposes." The decision was made in close coordination with the USFWS and National Marine Fisheries Service (NMFS). It included extensive public involvement with stakeholders and members of the public and tribes since the process began in 2016. USBR declared the decision will benefit both ecosystem needs and water supply, and includes a significant commitment to improved coordination with DWR to meet ESA requirements. It is estimated to cost \$1.5B over the next 10 years. See <https://www.whitehouse.gov> and <https://www.usbr.gov/>.

"We are challenging the federal biological opinions, which do not currently govern water project operation in the Delta, to protect highly imperiled fish species close to extinction," said Governor Gavin Newsom (D). "Our goal continues to be to realize enforceable voluntary agreements that provide the best immediate protection for species, reliable and safe drinking water, and dependable water sources for our farmers for economic prosperity. This is the best path forward to sustain our communities, our environment and our economy."

On February 20, California Attorney General Xavier Becerra (D), the California Natural Resources Agency, and the California Environmental Protection Agency filed suit against the Trump Administration for failing to protect endangered fish species. Filed in the U.S. District Court for the Northern District of California, the lawsuit requests that the court declare the Trump Administration's adoption of the biological opinions unlawful. "As we face the unprecedented threat of a climate emergency, now is the time to strengthen our planet's biodiversity, not destroy it," said Attorney General Becerra. "California won't silently spectate as the Trump Administration adopts scientifically-challenged biological opinions that push species to extinction and harm our natural resources and waterways." See <https://oag.ca.gov/news/press-releases>.

## **CONGRESS/WATER RIGHTS**

### **House Natural Resources/Tribal Water Rights**

On February 12, the House Natural Resources Committee held a markup to consider several bills. The Navajo Utah Water Rights Settlement Act (H.R. 644), was unanimously approved by the committee with an amendment. The companion bill, S. 1207, was reported last May, and added to the Senate calendar in September 2019. (See WSW #2344, #2316).

The Indian Water Rights Settlement Extension Act (H.R. 1904), which would make the Reclamation Water Settlements Fund permanent, was ordered with an reported amendment by a vote of 22-14. The bill extends authorization for the direct transfer of \$120M a year from the Reclamation Fund to the Reclamation Water Settlements Fund, to be used for the completion

of authorized water infrastructure projects related to Indian water rights settlements. The 2009 Omnibus Public Land Management Act authorized funds to be transferred beginning FY2020-2029. The 10-year delay from when the Act was passed enabled the legislation to remain outside the budget scoring window. The amendment to H.R. 1904 shifts the timing of continuing transfers from the Reclamation Fund forward by one fiscal year to FY2031, leaving a gap for FY2030 when no funds would be transferred. This amendment enables H.R. 1904 to remain outside the budget scoring window. A companion bill in the Senate, S. 886, would extend the transfers by another ten years through FY2039. (See WSW #2342, #2305).

### **House Natural Resources/More Water Now Act**

On February 12, the House Natural Resources Committee marked up other bills, including the Move Water Now Act (H.R. 5316), and the Disadvantaged Community Drinking Water Assistance Act (H.R. 5347). H.R. 5316 provides for the restoration of the original carrying capacity of canals impacted by land subsidence, with a federal cost share of up to 50%. The bill requires compliance with National Environmental Policy Act (NEPA), ESA, and state laws. It authorizes up to \$200M to implement the Restoration Goal of the San Joaquin River Restoration Settlement in PL 111-11, Sec. 10004.

H.R. 5347 establishes a grant program through the Department of the Interior to provide financial assistance to disadvantaged communities (under population 60,000) that have experienced a significant decline in the quantity or quality of drinking water due to drought, groundwater overdraft, or changing climate conditions and enable communities to meet standards under the Safe Drinking Water Act (SDWA). The bill authorizes \$20M a year from FY2021-2025, with up to 25% designated for operations and maintenance costs, including state circuit riding operations assistance teams.

Grant funds could be used for: (1) point of use treatment and point of entry systems; (2) wellhead treatment and distributed treatment facilities; (3) blending systems in compliance with State regulations; (4) costs related to the consolidation of multiple small rural water systems, or a small rural water system with a larger system; (5) construction of new water source facilities including wells and connections to existing systems; (6) water distribution facilities; (7) water capacity fees, water supply development fees, water connections fees, and similar fees that are assessed when a new connection is added to an existing water system as part of a consolidation; (8) assistance to households to connect to water facilities; and (9) emergency water supplies. The grants could also be used for any combination of these activities and for associated application and technical assistance costs.

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**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.**