

February 27, 2020

The Honorable John Barrasso
Chairman
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Thomas Carper
Ranking Member
Committee on Environment and Public Works
United States Senate
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

We write to commend the Committee for its leadership in pursuing water resources development legislation this year and to express support for your efforts to enact biennial legislation addressing the water resource needs of our states and communities. Current water resources are fully allocated in many basins across the West, and increased demand from population growth, economic development, fire events and extreme weather adds further stress on limited supplies. For purposes of drought mitigation, flood control, and supply allocation, responsible federal water resource development legislation is essential to efficient and effective stewardship of water supplies in the United States.

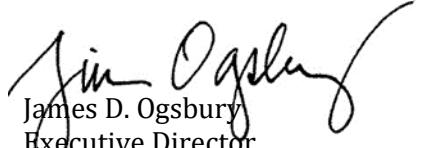
Strong state, regional and national economies require reliable deliveries of clean water, which in turn depend on adequate infrastructure. Investment in water infrastructure also provides jobs and a foundation for long-term economic growth in communities throughout the country.

As the Committee develops its 2020 water resources development legislation, we ask that you consider including language to address an issue of special concern: the protection of states' primary authority to manage and allocate waters stored in U.S. Army Corps of Engineers reservoirs. Specifically, we request that the legislation include bipartisan language that has been submitted by Senator Cramer and Senator Merkley that expressly recognizes states' primary authority over natural flows within river systems and excludes such waters from any Corps' definition of "surplus water." Although the Corps has recently announced that it has withdrawn its proposed rule, "Policy for Domestic, Municipal, and Industrial Water Supply Uses of Reservoir Projects Operated by the Department of the Army, U.S. Army Corps of Engineers," uncertainty remains as to how the Corps intends to define and treat so-called "surplus water" within its reservoirs. Statutory language that recognizes and preserves states' primary authority to access, manage, and allocate natural flows within river systems – and excludes such flows from any definition of "surplus water" or "impounded water" – would provide needed certainty and predictability and would thwart any future attempts by the Corps to unlawfully assert jurisdiction over such waters.

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We thank you again for your leadership in the development of bipartisan water resources development legislation. We hope that you will consider the undersigned associations as a useful resource on these and other water-related matters.

Sincerely,



James D. Ogsbury
Executive Director
Western Governors' Association



Karen White
Executive Director
Conference of Western Attorneys General



Tony Willardson
Executive Director
Western States Water Council

cc: The Honorable Kevin Cramer
The Honorable Jeff Merkley