

Governor Herbert's 9/30/15 Testimony to the United States House Committee on Natural Resources

Theme: Respecting State Authority, Responsibilities and Expertise Regarding Resource Management and Energy Development

INTRODUCTION

Thank you Chairman Bishop, Ranking Member Grijalva, and members of the Committee for the opportunity to present testimony today on the important theme, "Respecting State Authority."

I have the privilege of serving as the Governor of Utah, one of the 19 western states and 3 U.S. flag islands which make up the Western Governor's Association. Given the diverse backgrounds, interests, and preferences of our various constituencies, it is not surprising that WGA members don't agree on every policy question, yet we do find agreement on many common themes.

FEDERALISM, INNOVATION & RESULTS

For example, I believe all the states share some fundamental principles. Such as:

- 1) We share the belief that solutions developed at the local level -- by the people who live in the state and are impacted the most -- are typically more effective and lasting than those developed by officials who live and work hundreds or thousands of miles away;
- 2) We share the belief that flexibility, policy innovation, and customized solutions are more likely to be found in the states which are **acting** as laboratories of democracy.
- 3) Governors believe that states are uniquely capable of solving problems and providing viable solutions for our citizens.

I believe Governors are by their very role and position, strong supporters and advocates for the long-standing and historic principles of federalism embodied in the Constitution.

Unfortunately, over time, our nation has strayed from these principles of good government.

From the perch of a Governor's office, it is clear that the current state of relations between the states and the federal agencies is out of balance with the constitutional principles of federalism, with states now relegated to being little more than backseat drivers in the national policy vehicle.

Instead of serving as the laboratories of democracy, states are asked to spend an increasing amount of time and resources serving the wishes of the federal government and attempting to conform and adapt their unique policies and preferences in order to qualify for federal funds.

That needs to change.

President Ronald Reagan once said "***In many respects, the Federal Government is still operating on the outdated and, if I may say so, arrogant assumption that States can't manage their own affairs.***"

I agree with this sentiment.

And many of my fellow Americans are becoming increasingly concerned at how imbalanced the federal-state relationship has become.

Just this last week, a Gallup poll found that roughly half of Americans view the federal government as "***an immediate threat to the rights and freedoms of ordinary citizens.***" (Gallup's Sept. 9-13 Governance poll)

It is long overdue for our nation to return to a robust federalist system, with responsibilities allocated according to the constitutional framework.

Despite these challenges, I am excited by the fact that states continue to find creative solutions to meet the needs of their citizens.

As I have met with other states, I have discovered numerous best practices and innovative solutions for a spectrum of policy challenges, including resource management and development.

As the past Chair of the Western Governors Association, and as the newly elected Chair of the National Governors Association, one of my consistent priorities has been to focus on innovation.

Typically we think of innovation in the context of dynamic businesses and transformative technologies, but it also brings to mind this notion of states as the laboratories which provide for the needs of its citizens.

As a gridlocked federal government fails again and again to produce, for example, a comprehensive and balanced energy policy for the U.S., states are stepping forward with leadership on the issue.

For example, just two short weeks ago, Governor Susana Martinez of New Mexico released a sweeping new state energy policy.

The New Mexico plan calls for an “all of the above” approach to energy that promotes the production of all sources of energy as a means of creating jobs, diversifying a key sector of the economy, and supporting the nation's efforts to achieve energy independence.

This plan is the first comprehensive energy policy for the state in nearly 25 years, and many of the initiatives outlined in it are similar to the goals set out in the Western Governors' 10-Year Energy Vision, which I spearheaded two years ago as Chairman of the WGA.

I would strongly urge this body to look to New Mexico, the Western Governors Association 10 Year Energy Vision, and other state plans as it attempts to find a balanced, thoughtful approach to energy policy.

Public Land Management

States can also provide leadership in the management of the public lands precisely because states have the tools and the flexibility to modify and innovate on the spot to meet unique challenges and needs on the ground. By way of contrast, federal land management is inherently forced to rely on standardized, outdated, and often blunt approaches, even if those methods are counterproductive for some lands or resources.

States have a track record of devising policies that find the optimal balance between conservation and use of the lands – all components of proper stewardship. Here are just a few examples of customized land and resource efforts from my home state of Utah:

Chairman Bishop's Public Lands Initiative for Utah is a perfect example – the PLI represents a bottom-up, collaborative, multi-year effort to resolve long-standing land use conflicts. The PLI will streamline development of key natural resources and will identify and protect recreational and aesthetic resources that are critical to Utah's identity and long-term success.

Utah has also adopted a strong conservation plan designed to protect, enhance and restore sage grouse habitat throughout the state. This effort by the state and our partners has resulted in the restoration of more than 500,000 acres of sage-grouse habitat, and sage-grouse populations now exceed Utah planning objectives. Over the last two years we've seen bird populations in the state grow by roughly 30%.

Utah and local government led the way, in cooperation with the federal agencies, to produce a viable conservation plan for a rare plant in the energy development areas of Utah. This plan was sufficient to preclude the listing of the species, and provides certainty for the operations of many energy companies.

Finally, with respect to air quality, anticipating a nonattainment designation in Utah's Uinta Basin two years ago, the state put together a partnership that included state regulators, research institutions, and federal partners, to help us better understand the sources of the problem

in advance of a designation. The impetus was to make science-based regulatory changes prior to the nonattainment listing, with our federal partners agreeing that Utah could receive credit for gains achieved in advance of a possible nonattainment designation. It is still my hope that the EPA will recognize these efforts and find a way to actively encourage the state and industry to take steps to clean the air now rather than waiting until after a nonattainment designation.

These examples demonstrate the leadership and creative results states can utilize as they promote tailored, reasonable, and cost-effective solutions to environmental challenges.

Simply put, states are better positioned to understand their own unique resources, geography and population needs than the federal government, and are better positioned to bring all the parties together to find mutually agreeable, and durable, solutions.

CONCLUSION

Given the impressive records of Utah and other states, what can the federal government do to acknowledge states' unique abilities to solve challenging land and resource problems?

Here are a few suggestions:

- Take every opportunity to review and identify federal programs or regulatory regimes that could be delegated to states. This type of delegation should require the demonstration of results, but let's look at ways to unleash the creativity and flexibility of states when it comes to land and resource management.
- Aggressively pursue actions that will open up new export markets for western energy resources, including new export markets for oil, gas and coal, will be essential to states' ability to grow their energy economies, strengthen U.S. national security, and adapt to changing market conditions.

- Undertake a serious review of land management, environmental laws, and ownership patterns in the West. This approach should consider new management paradigms that would enable states to take increased responsibility and management roles on public lands. For example, the idea of long term (99 years plus) leases of certain lands, or of land trusts, or new regional interstate compacts, can provide better land management results at less cost.
- In addition, this Committee should also actively consider a proposal by the IOGCC to allow federal primacy delegation to the state for the regulation of oil and gas on public lands within western states.
- Finally, it's critical that we move to place limitations on the ability of federal agencies to promulgate rule after rule that are not firmly rooted in statute. The deference given to these agencies to provide expansive and intrusive interpretations of existing statutes has caused significant hardships for states and significant uncertainty for companies operating in the West.

Thank you again for the opportunity to testify this morning.