Testimony of

Anthony Willardson, Executive Director
Western States Water Council

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Subcommittee on Water and Power

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H.R. 3176 – to reauthorize the Reclamation States Emergency Drought Relief Act of 1991

I. INTRODUCTION

Chairman McClintock, Ranking Member Napolitano and Members of the Subcommittee, the Western States Water Council (WSWC) is a non-partisan policy advisory body closely affiliated with of the Western Governors' Association (WGA). The WSWC represents eighteen western states and WSWC's members are appointed by their respective governors to represent their states. Our membership includes senior state water managers and administrators. Moreover, twelve federal agencies, including the U.S. Bureau of Reclamation, have appointed representatives that comprise a Western Federal Agency Support Team (WestFAST) working with western governors to address pressing western water issues, including drought.

Our testimony is primarily based on WSWC Position #347 (attached), which strongly supports legislation to reauthorize the Reclamation States Emergency Drought Relief Act (43 U.S.C. 40), providing the Bureau of Reclamation with much-needed tools to respond to record-breaking drought. Of note, "The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans."

The WSWC strongly supports such authorized activities and similarly reauthorization of the National Integrated Drought Information System (NIDIS).

II. DROUGHT IN THE WEST

Drought has been, is, and will be an ongoing fact of life in the arid West. While conditions in many areas have improved recently, much of the West and Midwest continue to be affected by moderate to extreme drought, with a few areas of exceptional drought, as illustrated by the U.S. Drought Monitor of October 1, 2013. In the Summer of 2012, some two-thirds of the

country was experiencing some level of drought, and this past spring nearly half the Nation was affected by moderate to exceptional drought conditions.[1]

Unfortunately, the most up-to-date information is unavailable due to the shut-down of National Oceanic and Atmospheric Administration's (NOAA) website, www.drought.gov.

Of note, NOAA estimates that three of the five most costly U.S. weather related disasters were droughts – with Hurricane Katrina ranked #1, and Super Storm Sandy #4. The cost of the Drought of 2012 has yet to be fully calculated. Still, the figures available underscore the economic, environmental and social costs related to drought, and the need to focus more resources on planning for and mitigating drought impacts, as well as facilitating a prompt response during drought emergencies.

Although recent precipitation has somewhat improved drought conditions, particularly in the Midwest,[2] the U.S. Seasonal Drought Outlook suggests drought will likely persist in much of the West for some time.

Dry conditions this past summer follow the record breaking drought of 2012, which was unique in terms of its sudden onset, persistence, and magnitude – both in terms of extremes and the large geographic area affected.[3] For example, over 60% of the contiguous U.S. experienced moderate to extreme and exceptional drought during 2012, with only 1934 comparable in duration and geographic extent.[4] Last year, was also the warmest year on record for the contiguous U.S. dating back to 1895.[5]

Not surprising, these antecedent conditions coupled with the ongoing drought have adversely impacted a broad spectrum of economic, environmental, and other interests across the West and the Nation as a whole, the effects of which will reverberate for years to come. Examples include:

- According to some estimates, drought costs the U.S. economy between $6 billion to $8 billion per year,[6] with the cost of the 2012 drought possibly exceeding $35 billion.[7]

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[1] Kelly Helm Smith., *Drought Shifts West on April 23 U.S. Drought Monitor as Heavy Rains Drench the Midwest*, NAT'L DROUGHT MITIGATION CTR. NEWS (Apr. 18, 2013), http://drought.unl.edu/NewsOutreach/NDMCNews.aspx?id=90.
[2] *Id.*
[3] *Hearing on Drought, Fire and Freeze: The Economics of Disasters for America's Agricultural Producers before the U.S. Senate Committee on Agriculture, Nutrition, and Forestry*, 113th Cong. 1, 3 (Feb. 14, 2013) (statement of Roger Pulwarty, Director, National Integrated Drought Information System).
[4] *Id.*
[5] NAT'L CLIMATIC DATA CENTER, WILDFIRES – ANNUAL 2012 (Jan. 7, 2013), http://www.ncdc.noaa.gov/sotc/fire/2012/13.
[6] W. GOVERNORS ASS'N, CREATING A DROUGHT EARLY WARNING SYSTEM FOR THE 21ST CENTURY, preface (2006), http://westgov.org/reports/doc_download/394-creating-a-drought-early-warning-system-for-the-21st-century-nidis.
[7] Pulwarty, *supra* note 3 at 2 (citing Aon Benfield Reinsurance Group's Annual Global Climate and Catastrophe Report).

- Agriculture accounted for much of the economic costs of the 2012 drought,[8] due in part to moderate or exceptional drought conditions affecting around 70% of the Nation's crop and livestock production at certain times during the year.[9]

- For only the third time in over 40 years, wildfires across the country burned more than 9 million acres in 2012, causing over $1 billion in damage.[10] The most damaging fires occurred in the West, including the Whitewater-Baldy Fire which burned 297,845 acres in New Mexico's Gila National Forest.[11]

- The Colorado River Basin experienced one of its driest years in the 1895-2012 period of record, with only 44% of its annual average runoff.[12]

- Skier visits to the 21 resorts that comprise Colorado Ski Country USA were down 11.5% in 2012, compared to 2011.[13]

Notwithstanding the severity of these impacts and the relative frequency of drought in many parts of the West and the Nation, in general, we have to often taken a reactive approach to drought, responding on an ad hoc basis to each drought crisis as it develops. However, over the years, many western states and federal agencies have undertaken more proactive approaches to coordinated planning and preparedness intended to avoid or mitigate adverse impacts before they happen.

Of note, in the 1996 Drought Response Action Plan, the WGA set an aggressive goal of changing the way our Nation prepares for and responds to drought, with subsequent efforts by the WGA and the WSWC designed to promote a comprehensive, coordinated, and integrated response to drought at all levels of government. We have worked with federal agencies, including the Bureau of Reclamation, to promote, proactive, cooperative drought contingency planning and response.

III. THE RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT

The Bureau of Reclamation is the nation's largest wholesale water supplier, providing water to over 31 million people and supplying irrigation water to one out of five western farmers.[14] Notwithstanding Reclamation's vital role as a water supplier in the West, the Act constitutes the whole of its specific drought response and planning authority. Consequently,

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[8] *Id.*
[9] U.S. DEP'T OF AG., ECONOMIC RESEARCH SERVICE, U.S. DROUGHT 2012: FARM AND FOOD IMPACTS, http://www.ers.usda.gov/topics/in-the-news/us-drought-2012-farm-and-food-impacts.aspx#.UXhHzbU4udh
[10] Pulwarty, *supra* note 2 at 1; NAT'L CLIMATIC DATA CENTER, WILDFIRES – ANNUAL 2012 (Jan. 7, 2013), http://www.ncdc.noaa.gov/sotc/fire/2012/13.
[11] U.S. FOREST SERV., WHITEWATER-BALDY COMPLEX FINAL COMMUNITY UPDATE (June 28, 2012), http://www.fs.usda.gov/detail/gila/news-events/?cid=STELPRDB5377297.
[12] Pulwarty, *supra* note 3 at 1.
[13] *Id.*
[14] U.S. BUREAU OF RECLAMATION, BUREAU OF RECLAMATION: FACTS AND INFORMATION, (Jan. 4, 2013), http://www.usbr.gov/main/about/fact.html.

failure to reauthorize the Act will limit Reclamation's ability to deliver assistance in response to present drought impacts and also limit its ability to help states, tribes, and other stakeholders plan for mitigating and minimizing future drought impacts.

A. Title I – Assistance During Drought

Title I of the Act authorizes Reclamation to undertake construction, management, and conservation measures during drought to minimize or mitigate damage or loss, including authority to act as a "last resort" to aid smaller towns, counties, and tribes that lack the financial capacity to address drought impacts on their own. It also authorizes Reclamation to acquire water to meet diverse requirements under the Endangered Species Act, while at the same time benefiting water users and water delivery contractors at a time when they often face significant financial challenges. Other beneficial drought response actions that Reclamation can undertake under Title I include:

- Participation in water banks established under federal law;
- Facilitation of water acquisitions between willing buyers and willing sellers;
- Acquisition of conserved water for use under temporary contracts;
- Making Reclamation facilities available for storage and conveyance of project and non-project water;
- Making project and non-project water available for non-project uses; and
- Acquisition of water for fish and wildlife purposes.

B. Title II – Drought Contingency Planning

Title II of the Act responds to Benjamin Franklin's oft-quoted adage: "By failing to plan, you are preparing to fail." Specifically, it authorizes Reclamation to assist and participate in the preparation of drought contingency plans in all 50 states and U.S. territories to help prevent or mitigate future drought-related losses. Title II also authorizes Reclamation to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies that are available to federal Reclamation projects and Indian water resource developments to better prepare for and respond to drought conditions.

States have primary authority over the allocation and protection of water resources within their borders. However, the WSWC has long supported integrated water resource management and encourages the development of comprehensive water plans with state leadership and federal assistance. This includes a comprehensive and integrated response to drought in which states work with federal agencies, local communities, and other stakeholders to develop proactive drought preparedness and contingency plans.

Title II authorizes Reclamation to engage in exactly this type of planning, which is critical to the social, environmental, and economic well-being of the West. Reauthorization of the Act is needed to maintain Reclamation's ability to carry out this important work. Otherwise, states, tribes, and local communities will likely be deprived of much needed technical assistance and expertise at a time when some projections indicate that large portions of the West, particularly the Southwest, will become hotter and drier in coming years. Many of these areas are also experiencing increasing demands on already scarce water supplies due to rapidly growing populations, environmental requirements, energy resource development and other factors. As a result, the need for effective drought preparedness and contingency plans has never been greater. Of note, many of the enumerated elements of such plans, including water banks and water rights transfers (both temporary and permanent), may require state authorization.

IV. CONCLUSION

The exceptional drought conditions of 2012 and the ongoing drought that covers much of the West underscores the need to reauthorize the Act. Reauthorization will provide Reclamation with clearer direction and greater flexibility to continue delivering water and much needed financial and technical assistance to states, tribes and local communities suffering from record-breaking drought impacts. Reauthorization will also facilitate more effective state-based and other grassroots drought preparedness and mitigation efforts. Absent reauthorization, Reclamation will lack critical authority to provide emergency assistance.

Moreover, given our member states' experience with implementation of the Act, it may be well to further evaluate the current needs of the states, tribes and local communities and Reclamation's existing authorities and capability to assist in meeting those needs as appropriate. With minor exceptions, such as the drilling of wells, the Act authorizes only temporary, non-structural actions. To maximize the effectiveness and efficiency of such actions, they should be considered and undertaken within the context of both state emergency drought response plans, but broader state water planning activities.

Notably, the Act provides that the programs and authorities become operative "only after the Governor or Governors of the affected State or States…has made a request for temporary drought assistance…." Further, the Act states, "All actions taken pursuant to this chapter pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law." Lastly, "Nothing in this chapter shall be construed as expanding or diminishing State, Federal, or tribal jurisdiction or authority over water resources development, control, or water rights."

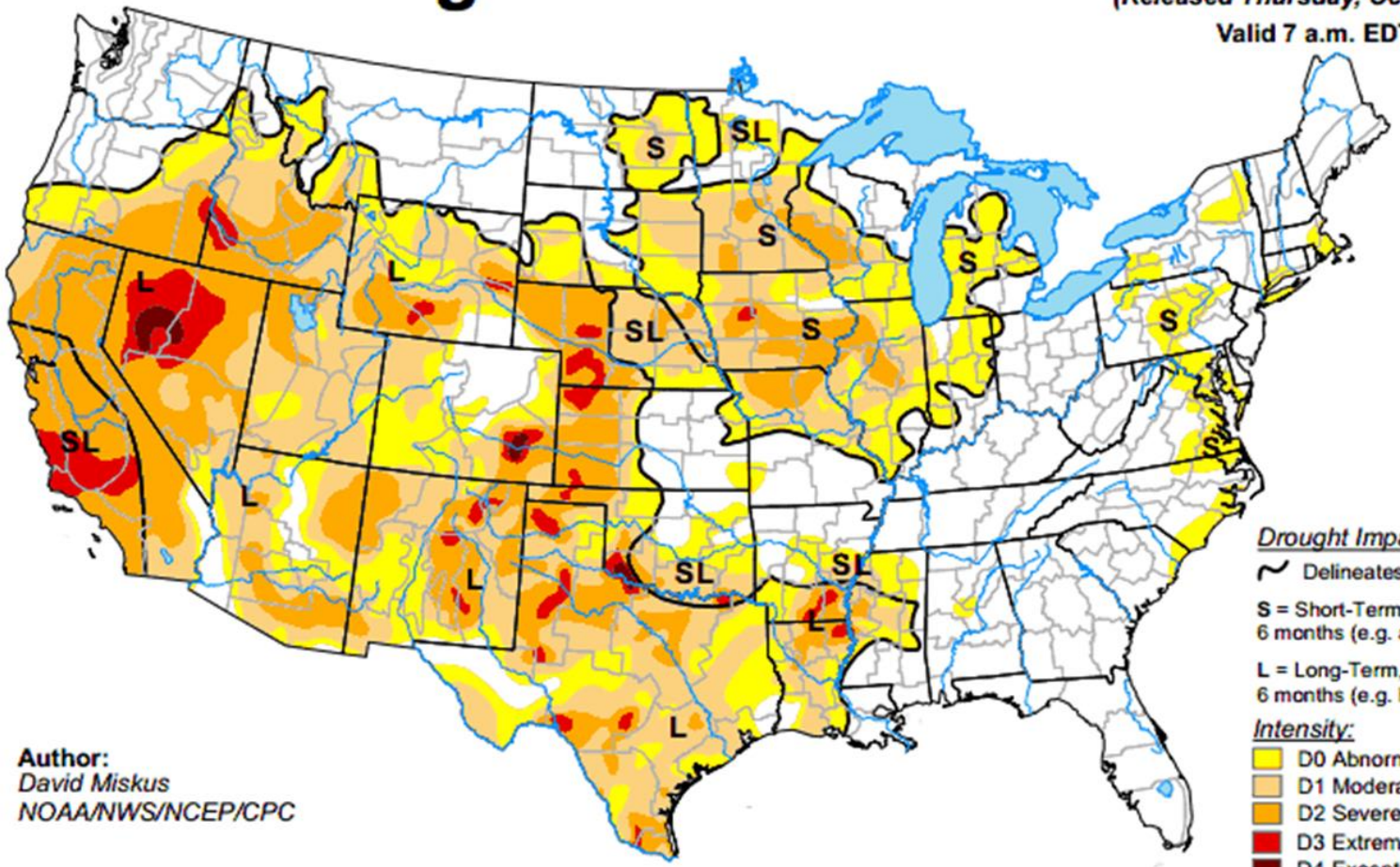
The WSWC appreciates the opportunity to submit this testimony and urges the Committee to favorably report H.R. 3176 to reauthorize the Act.

U.S. Drought Monitor

October 1, 2013

(Released Thursday, Oct. 3, 2013)

Valid 7 a.m. EDT



Author:
David Miskus
NOAA/NWS/NCEP/CPC

Drought Impact Types:

Delineates dominant impacts

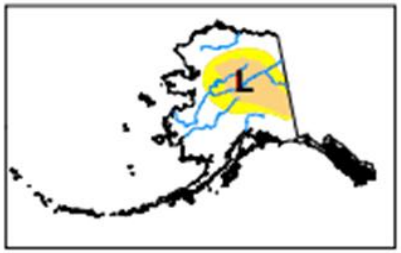
S = Short-Term, typically less than 6 months (e.g. agriculture, grasslands)

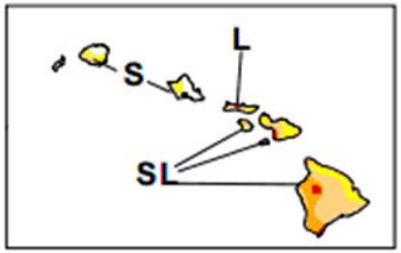
L = Long-Term, typically greater than 6 months (e.g. hydrology, ecology)

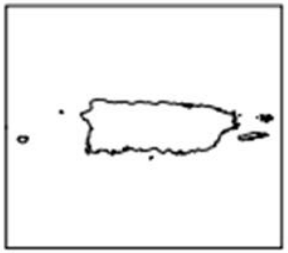
Intensity:

- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for forecast statements.







USDA

National Drought Mitigation Center

http://droughtmonitor.unl.edu/