



August 12, 2015

Ann Mills
Deputy Under Secretary for Natural
Resources and Environment
Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

Peter Colohan
Senior Advisor
National Oceanic and Atmospheric Administration
Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Dear Ms. Mills and Mr. Colohan:

Thank you for the opportunity to comment on the National Drought Resilience Partnership's efforts to identify federal opportunities for improving long-term water resource resilience. Our organizations, which participated in the White House Drought Symposium on July 15, 2015, represent the views of millions of hunters, anglers, and other outdoor enthusiasts who all rely on water for healthy fish and wildlife habitat and quality days afield.

As the current crisis in California demonstrates, the worst time to respond to a drought is in the midst of one. At that point, there are few, if any, good options available to avoid the worst impacts of drought, and combined with enflamed passions and politics, reaching consensus on solutions is nearly impossible. We need to start planning for future droughts, which will become more frequent and severe as the climate changes, so that we have more options available to us when the next drought hits and we are less likely to suffer significant economic or ecological harm.

All federal actions to enhance drought resilience should provide for delivery of water to meet the needs of fish and wildlife. In particular, federal agencies should prioritize delivery of water at critical times and of sufficient flows to provide habitat and forage for millions of migratory birds and fish.

In addition to that general requirement, we recommend that federal efforts adhere to the set of four principles and associated actions attached. By doing so, the nation will be less likely to reach a crisis point in future droughts that harms fish and wildlife populations, jeopardizes farmers' livelihoods, or threatens drinking water supplies.

We urge you to continue the dialogue begun at the White House Drought Symposium and work with stakeholders, including sportsmen and conservationists, to transition it into effective federal actions that make our country more drought resilient.

Thank you for considering our views.

Sincerely,

Kameran Onley
Director, U.S. Government Relations
The Nature Conservancy

Jimmy Hague
Director, Center for Water Resources
Theodore Roosevelt Conservation Partnership

Laura Ziemer
Senior Counsel and Water Policy Advisor
Trout Unlimited

Principles and Recommendations for Improving Water Resource Resilience

1. **Federal programs should prioritize actions that reduce the risk of water shortages, create flexibility in water management, and improve the reliability of water systems on a basin scale.**
 - **Eliminate perverse incentives.** First, do no harm. National Drought Resilience Partnership (NDRP) agencies should conduct a review of programs to identify perverse incentives that may be exacerbating the effects of drought. For example, the Bureau of Reclamation is funding groundwater pumping in overused aquifers as part of its drought response program. While these actions provide short term relief to farmers, they hinder progress towards long-term, sustainable water use and drought resilience by increasing conflicts between ground and surface water users, and eclipsing the future potential of low-cost aquifer recharge and storage when aquifer over-draft leads to subsidence.
 - **Coordinate USDA programs across drought-affected watersheds to promote voluntary partnerships with irrigators.** Department of Agriculture (USDA) programs offer strong water conservation and efficiency incentives to individual farmers and ranchers. However, the impact of these programs can be amplified by coordinating them across an entire watershed or basin. In targeted watersheds that are particularly susceptible to severe drought impacts, for example, the Colorado River basin, USDA should work with state, agricultural and conservation partners to coordinate the activities of its conservation, marketing, and economic development programs to focus on improving agriculture productivity, water quality, water supply, drought resilience, and ecological health.
 - **USDA should use agriculture easements to manage water demand.** USDA should consider ways to enhance the Regional Conservation Partnership Program authorized in the 2014 Farm Bill to extend and deepen the benefits afforded by that program to the West's persistently drought-afflicted regions. This should include funding for voluntary transactions, including easements, that reward landowners who commit to agricultural practices that prevent increases in, or hardening of, demand for irrigation water. These voluntary transactions allow for more strategic management of floodplains and groundwater recharge to enhance water supply.
 - **Coordinate USDA conservation programs with WaterSMART.** The Natural Resources Conservation Service (NRCS) and the Bureau of Reclamation should enter into an agreement to coordinate water conservation efforts. Specifically, NRCS conservation programs should be coordinated with Reclamation's WaterSMART Program to leverage the complementary capacity of both to improve the efficiency of and flexibility in agricultural water use while promoting ecological health. The agencies started a successful pilot project in 2011 to coordinate funding in California that could serve as a model for a west wide agreement.
 - **Promote voluntary water transfer strategies.** Voluntary water transfer/sharing mechanisms can create flexible water management and promote conservation across a basin. Federal agencies, in particular, the Bureau of Reclamation, should place a high priority on incentivizing and facilitating water transfer strategies. Reclamation needs a high level

official(s) designated to work with stakeholders to address the potential for flexible demand management mechanisms, including water trading, banking, and system conservation concepts, to address drought and system reliability concerns while improving river flows. All transfers should include measures to mitigate third party impacts, including to the environment, especially in the basins of origin. Funding from the WaterSMART Program should be used for pilot projects to test and refine these strategies. For example, replacing financial support for groundwater pumping in over-tapped aquifers with payments to facilitate short-term water transfers among users, particularly from seasonal crops to orchards, is a way to respond to drought's impacts without increasing basin-wide water scarcity.

- **Modernize dam operations to manage flood risk and boost water supply.** Many dams in the West, both federal and non-federal, include water supply and flood risk management capacity. The latter is operated according to rules that, in many cases, have not been updated in many years, do not take advantage of the most sophisticated weather forecasting technologies, and rely on rule curves for reservoir operations tied to specific calendar dates rather than hydrologic conditions. This sometimes results in lost opportunities to capture water for supply purposes and limits the potential for environmental benefits, like periodic pulse flows. When combined with voluntary transactions to restore floodplain function and maintain or enhance groundwater recharge opportunities, modernizing dam operation rules can yield significant water supply and instream flow benefits.

2. Federal programs should prioritize restoring hydrologic function and ecosystem services as a cost-effective means to increase water supply and drought resilience.

- **Extend and enhance the WaterSMART Program.** Grants issued through the Bureau of Reclamation's WaterSMART Program have been a powerful tool for conserving water through collaborative local projects. The 80 grants issued in Fiscal Years 2013 and 2014 will save an estimated 167,000 acre-feet of water per year – enough to serve more than 650,000 people, or more than the population of Wyoming. Yet only about one out of five grant applications receives funding, and very few grants fund projects that stack benefits for both water users and the watersheds on which they depend. This reflects a huge amount of unmet water savings potential and ignored habitat improvements. Finally, without action by Congress, the WaterSMART Grants program will expire before the end of 2016. The Bureau of Reclamation should work with Congress to extend the grants program beyond 2016; set a goal of funding one out of three grant applicants, and budget accordingly; and require that projects offer watershed benefits in addition to water supply benefits. In particular, to generate additional applications offering watershed benefits, Reclamation should work with Congress to remove the prohibition on non-governmental organizations from applying for WaterSMART Grants.
- **Expand use of existing drought response authorities.** The Bureau of Reclamation has the authority to fund temporary water transfers, water banking and other structural and non-structural measures to stabilize river flows and improve the efficiency and reliability of water supplies across all sectors under Title I of the Emergency Drought Relief Act. This authority

was recently extended through 2017. Reclamation should use this authority more extensively to strengthen and expand its Drought Response and Resilient Infrastructure programs and other targeted, emergency drought relief. The authorized spending levels under the Emergency Drought Relief Act should be increased as needed through 2017, and the Bureau of Reclamation should work with Congress to extend the authority beyond 2017.

- **Study the use of hydropower revenues for conservation projects.** Hydropower is an important source of renewable energy and a critical component of the nation’s energy portfolio. However, hydropower also has significant negative impacts on fish, including blocking fish passage and altering flow, temperature, and sediment regimes. In order to promote sustainable hydropower facilities, the Department of Energy should conduct a feasibility study of funding conservation efforts from hydropower revenues and licensing fees from both FERC-licensed and federal facilities that don’t require FERC licensing. Such funding should support conservation efforts within the basin from which the revenue is generated to restore hydrologic and/or ecosystem functions. In particular, the study should examine the potential for improving operation of the hydropower facility through conservation efforts that enhance stream flows, following the Bonneville Power Administration’s effective example in creating the Columbia Basin Water Transactions Program that restores and protects instream flows above hydropower facilities to the benefit of power production and imperiled salmon, steelhead, and native trout.
- **Restore and protect hydrologic function on federal lands.** While most of the NRCS and Reclamation programs with conservation benefit focus on private lands, restoring hydrologic function on public lands is also important to creating drought resilience. One of the most cost-effective investments in drought resilience is restoring and protecting hydrologic function, especially in headwaters, so that natural forests, wetland, meadow, and floodplain systems can accumulate and retain snowpack, absorb high flows and slowly release water over time, whether on public or private lands. Agency guidance should direct specific consideration of such restoration and protection of hydrologic function in land management and planning to increase water supply for downstream users. There are existing examples that can be replicated and expanded to improve watershed function, develop best practices, and explore innovative funding mechanisms, such as the Western Watershed Enhancement Partnership between the U.S. Bureau of Reclamation and the U.S. Forest Service and partnerships with non-federal entities like the U.S. Forest Service’s “Forest to Faucet” partnership with Denver Water.
- **Stack benefits across multiple sectors.** With the demand for investment in water infrastructure far outstripping the federal government’s ability to fund directly, federal agencies should require that projects selected for federal funding stack environmental benefits on top of benefits for the other three sectors affected by water infrastructure: agriculture, municipal/industrial, and energy.

3. Federal programs should incentivize and support intact watershed processes.

- **Prioritize and incentivize intact watershed processes.** Watersheds respond best to drought when there is clear dialogue and an effective mechanism for communication among federal, state, tribal and local agencies and local stakeholders such as sportsmen, farmers, ranchers, and businesses. The hallmarks of such an intact watershed process are (1) the presence of a trusted convener who has established relationships within the river basin; (2) a watershed-scale group that has committed to mutual benefits as a common goal; and (3) a track record of successful project implementation. Federal agencies should prioritize resources for basins with an intact watershed process. Federal agencies also should devote resources to programs that incentivize the creation or facilitate the actions of intact watershed processes.
- **Use the Basin Study Program to promote intact watershed processes.** The Bureau of Reclamation's Basin Study Program, which is a component of the WaterSMART Program, has invested in certain river basins to bring relevant stakeholders together and created the mechanisms and support structure to facilitate an intact watershed process. Reclamation should continue support for the Basin Study Program in ways that promote intact watershed processes as defined above.
- **Use the Cooperative Watershed Management Act to promote intact watershed processes.** The Cooperative Watershed Management Act, which the Bureau of Reclamation administers through the WaterSMART Program, supports the formation and development of locally led watershed groups and facilitates the development of multi-stakeholder watershed management projects. Despite being authorized at \$20 million per year, the program has never been funded above \$250,000 per year. Reclamation should increase the budget for the Cooperative Watershed Management Act to expedite the formation of intact watershed processes across the West.
- **Partner with the states to improve data collection.** Federal agencies should look for opportunities to partner with states to improve information necessary to more effectively and efficiently manage water resources. Information about flows is essential to responsible management. The U.S. Geological Survey should partner with states and others to re-activate or establish gauges on critical river and stream reaches. Many gauges have been de-activated or damaged due to flooding.

4. Federal programs should be more accessible to and lower transaction costs for State, local, tribal and non-governmental entities.

- **Study the unintended consequences of restrictive eligibility requirements.** Federal agencies should conduct a review of cost-share programs to determine whether eligibility requirements are limiting participation from significant potential applicants and preventing the replication and scaling up of successful drought resilience efforts. For example, EQIP funding is distributed through contracts with individual farmers when it may be more efficiently used if an irrigation district or other regional organizations are also eligible to apply for cost-share funding. Also, non-governmental organizations, which have the potential to bring significant non-federal matching funds to projects with multiple benefits, are prohibited from applying for WaterSMART Grants.

- **Designate a single point of contact in major river basins for federal drought resilience programs.** The NDRP agencies should establish a single federal coordinator in each major river basin to bring coherence to federal programs across multiple agencies. The person would act as a single point of contact for non-federal entities wishing to access federal resources and provide technical assistance to applicants for federal funding. The person would add staff capacity so over-burdened federal agencies could focus on carrying out their statutory missions.
- **Clarify the tax treatment of appropriative water rights.** Federal tax deductions are one of the main financial incentives associated with charitable contributions or donations of real property. Charitable donations of Western, appropriative water rights should be entitled to a federal tax deduction. Yet, since the use of water rights transactions has only emerged in recent years, the Internal Revenue Service (IRS) has not issued any definitive statement on the tax deductibility of such donations, which is the primary obstacle to increased use of water rights donations by landowners. If this ambiguity were clarified, landowners would be more likely to donate all or portion of their water rights, and the use of voluntary water transfers to accomplish federal and state water resource management goals would become more common. The IRS should prioritize issuing the revenue ruling that has been pending since 2012 regarding the charitable donation of an appropriative water right as tax deductible.
- **Review federal programs for increased coordination opportunities.** The NDRP should be tasked with ensuring that all relevant federal programs and funding sources are prioritized, to the extent possible, to reduce the risk of water shortages, create flexibility in water management, and improve the reliability of water systems on a basin scale. In particular, the NDRP, in coordination with stakeholders, should conduct a review of federal programs and funding sources currently available for drought response and planning, conservation, water infrastructure and salinity control. The review should identify opportunities for better coordination between programs in order to address critical demand management, habitat conservation and restoration, and salinity concerns as well as identify duplicative programs.
- **Publish the results of federal drought resilience programs.** Federal agencies should make data available to the public in regular reports that describe the results of federal drought resilience efforts, especially in cost-share programs. The reports should include a description of the number and quantity of federal resources made available through grants, loans, or other financial assistance as well as the quantified benefits of drought resilience efforts associated with water supply, ecosystem function, and other relevant sectors.