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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS-2021-0007]

Response to Western Water Quantity (WWQ) Listening Session

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice.

SUMMARY: The Natural Resources Conservation Service (NRCS) hosted a virtual, open, public listening session, on December 17, 2020, with remote participation only, for public input about water quantity in the western United States as it relates to existing NRCS programs. NRCS provided stakeholders both an opportunity to give oral testimony during the listening session and a 30-day public comment period for additional input. NRCS received comments from 66 stakeholders, including representatives from national organizations, individuals or organizations from 13 western States, and one Indian Tribe. This notice responds to comments received during the listening session and the subsequent public comment period, which closed on January 19, 2021, and identifies the actions that NRCS has taken and will be taking in the months ahead.

FOR FURTHER INFORMATION CONTACT: Martha Joseph; phone: (814) 203-5562; email: martha.joseph@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 2020, NRCS hosted a virtual, open, public listening session, with remote participation only, for public input about water quantity in the western United States as it relates to existing NRCS programs. NRCS provided stakeholders both

an opportunity to give oral testimony during the listening session and a 30-day public comment period for additional input. NRCS requested input about the challenges, needed breakthroughs, and priorities, and identified that it would consider this information in its evaluation of existing programs and efforts to position these programs to achieve positive outcomes.

NRCS is taking this opportunity to provide a summary of the comments it received, responses to questions and comments made, and describe the actions NRCS is currently taking. In particular, NRCS charged its State Conservationists to work with its stakeholders to identify the priority water quantity issues in their State, the current agency response to addressing them, and the key barriers, challenges, or gaps that stakeholders may be able to help fill. NRCS evaluated this information to develop western water quantity strategies through a framework for conservation.

Discussion of WWQ Comments

The *Federal Register* notice for the WWQ listening session, which was published on December 3, 2020 (85 FR 78114–78115), included a 30-day comment period that ended January 19, 2021. NRCS received comments from 66 stakeholders, including representatives from national organizations, individuals, or organizations from 13 western States, and one Indian Tribe. These organizations represented State and national conservation partners, State and local governments, one Federal agency, one Tribal government, NGOs, and several individuals. NRCS received comments as follows:

- 40 speakers provided testimony during the listening session; 12 of these speakers also sent in written comments during the comment period; and
- 26 additional commenters provided written comments outside of the listening session.

NRCS did not receive any comments from Missouri River Basin States. Additionally, while most of the 574 Federally-recognized Indian Tribes, including Alaska

Native Corporations, are in the West, NRCS only received one comment from an Indian Tribe. NRCS has identified this as a particular area of concern to increase its outreach specific to assistance for water resources.

The *Federal Register* notice for the Public Listening Session encouraged the stakeholders to provide feedback on any of the following questions:

1. For agricultural producers: What is your most pressing water related issue that may constrain or currently constrains your operations?

Response: Overall, NRCS received responses from producer groups which represent thousands of producers and individual producers. These producer groups expressed interest in a range of topics, but surface water availability and water rights spurred the most interest. The topics of groundwater, interagency collaboration, locally-led conservation, climate and weather variability, funding, irrigation, programs, soil health, and wildlife habitat were each mentioned.

2. For non-producers and organizations: What is your most pressing water related issue that is needed by the agricultural community you assist?

Response: While these comments spanned the complete range of administrative and natural resource topics, there was significant interest around funding, NRCS standards and specifications, interagency collaboration, and program eligibility. Other areas of particular interest included: irrigation; climate and weather variability; groundwater; locally-led conservation; related water quality issues; planning assistance; and surface water.

3. For producers and organizations: What is your most pressing water related issue with which NRCS can help you through a technical or financial assistance program or through facilitating and engaging in a collaboration or partnership*?*

Response: The comments identified that groundwater, irrigation, climate and weather variability, and surface water were the most pressing water-related natural resource issues for which NRCS could provide assistance. The comments also identified related water quality issues, water rights, wildlife habitat, soil health, source water, aquifer recharge, and snow survey and water supply forecasting as issues with which NRCS could provide assistance.

4. How can NRCS best coordinate with other Federal, State, and local efforts to address water related issues*?*

Response: NRCS received significant interest for greater interagency collaboration and coordination, particularly with respect to implementation under the National Environmental Policy Act (NEPA). NRCS received comments that focused specifically on interagency coordination in Oregon, which recommended an interagency working group.

5. How can State Technical Committees assist in addressing your most pressing water related issues?

Response: NRCS received comments identifying the State Technical Committees in three topic areas: locally-led conservation, ground water, and source water. These comments broadly sought realignment of State Technical Committee priorities to favor practices that increase water use efficiency, reduce evapotranspiration loss, and the use of cover crops to address groundwater supply and aquifer recharge. Some comments focused on nursery and container operations. A recommendation was made that representatives from water utilities be on the State Technical Committees.

6. What additional issues do you confront about which NRCS should have awareness*?*

Response: NRCS received comments identifying issues associated with cloud-seeding, increased partnerships with drinking water utilities, and whether NRCS can play

a role in the retirement of water rights. The comments recommended that NRCS be given additional authority to engage with the Department of the Interior's Bureau of Reclamation (BOR) and the Department of the Army's Corps of Engineers to support and complement their programs to promote water conservation and increased water use efficiency.

Comments Summarized by Topic

In this notice, the comments have been organized and summarized alphabetically by topic. The topics include aquifer recharge, climate and weather variability, funding, general comments, groundwater, initiatives, interagency coordination, irrigation, locally-led conservation, NRCS standards and specifications, planning assistance, program eligibility, related water quality issues, snow survey and water supply forecasting, soil health, source water, water rights, and wildlife habitat.

Aquifer Recharge

Comment: Comments related to aquifer recharge focused on the Ogallala aquifer and made calls for increased funding for efforts to conserve in this area.

Response: NRCS is supporting innovative technology for aquifer and groundwater recharge through two interim conservation practice standards, Managed Aquifer Recharge, and Groundwater Recharge Basin or Trench. NRCS – California will evaluate their effectiveness as part of their fiscal year (FY) 2022 conservation program delivery. Through the new framework for conservation, NRCS has identified strategies that land owners and managers can take, and assistance they may receive, to reduce groundwater withdrawals and support aquifer recharge.

Climate and Weather Variability

Comment: Comments expressed concern about how weather variability is causing their livestock and crops to suffer, harming their bottom lines, creating discontent, and causing litigation between neighbors. The comments requested additional research and solutions for addressing climate change, specifically in terms of adaptation, such as cloud

seeding, reduced water use, runoff control, stormwater collection, and aquifer recharge. The comments also supported mitigation efforts, such as carbon sequestration.

Response: NRCS helps farmers and ranchers understand the vulnerabilities of natural resources that changing climatic conditions exacerbate. NRCS provides financial and technical assistance to improve conservation of natural resources for the benefit of the production system and surrounding landscape. NRCS also focuses on information delivery and assistance to producers and landowners to increase conservation practices on private lands that help agricultural operations and their communities build resilience to variable climatic conditions and extreme weather. Many of these same practices also provide opportunities to sequester carbon or reduce greenhouse gas emissions. Categories of conservation practices for climate smart agriculture and forestry include soil health, nitrogen management, grazing and pastures, agroforestry, forestry, and upland wildlife habitat.

Funding

Comment: A wide range of comments related to funding. Most comments can be summarized as requests to fund repairs or improvements to aging infrastructure. Comments also related to the types or rates for NRCS payments, such as funding for practices that maintain streamflow and use of local economic analysis when establishing payment rates. There were recommendations that NRCS provide financial incentives for incorporating voluntary, rotational fallowing with cover crop to support basin-wide water conservation, including developing financial incentives that adequately compensate for the costs of taking land out of production on a temporary or longer rotation to conserve water.

Response: NRCS will continue to improve its outreach efforts to ensure producers in local areas are aware of their options. NRCS has a variety of programs that are used to address aging infrastructure, including Watershed and Flood Prevention

Operations, the Watershed Rehabilitation Program, the Regional Conservation Partnership Program, and the Environmental Quality Incentives Program (EQIP).

The Infrastructure Investment and Jobs Act also known as "the Bipartisan Infrastructure Law" (BIL), Pub. L. 117-58, see Division J, Title I) provides $918 million for implementation of projects through NRCS watershed programs. In particular, BIL provides $500 million for the Watershed and Flood Prevention Operations Program, which helps entities of state, local, and Tribal governments (project sponsors) protect and restore watersheds up to 250,000 acres by cooperating with them to plan and install projects for a range of water-related purposes including rural, municipal, and industrial water supply, and use and disposal of water. BIL also provides $118 million for the Watershed Rehabilitation Program, which helps project sponsors rehabilitate aging dams constructed with NRCS assistance. Finally, BIL provides $300 million for the Emergency Watersheds Program to address impairment to watersheds caused by natural disasters such as floods, drought, and wildfires.

Through the Regional Conservation Partnership Program, NRCS co-invests in public-private partnerships to expand collective conservation efforts to address drought, poor water quality, and other natural resource concerns. Eligible farmers and ranchers located in an EQIP priority area for the WaterSMART Initiative (WSI) are automatically ranked for funding improvements to managing soil moisture, irrigation water use efficiency, and protecting irrigation water sources from depletion. These targeted EQIP-WSI investments are coordinated with investments made by the BOR's WSI Program in water conservation and drought resilience projects carried out by water suppliers in the same area.

General Comments

Comment: Several comments expressed general support for NRCS activities and suggested that NRCS should do more to address water quantity issues in the West.

Response: NRCS appreciates the feedback. NRCS has developed western water quantity strategies through its framework for conservation and is currently rolling out guidance for implementing them. NRCS charged its State Conservationists to work with its stakeholders to identify the priority water quantity and related issues in their state, the current agency response to addressing them, and the key barriers, challenges, or gaps that stakeholders may be able to help fill. These issues, actions, and needs have been evaluated by NRCS subject matter experts and NRCS will share its findings resulting from this evaluation in its new framework.

Groundwater

Comment: Comments acknowledged that NRCS programs currently address groundwater protection but recommend that NRCS should increase program funding and partnership input on setting priorities.

Response: State Technical Committees, including local work groups, provide NRCS an avenue for direct stakeholder input to each State Conservationist, and NRCS strives to be responsive to stakeholder input. Through its framework for conservation action with respect to western water quantity and related issues, NRCS encourages stakeholders to continue to engage with local workgroups and State Technical Committees to identify priorities, such as groundwater depletion, to target with NRCS programs, funding, and activities.

Initiatives

Comment: Comments recommended that the agency develop a specific program or targeted funding effort that focuses funding for groundwater depletion in the western region where applicants compete only against other groundwater projects.

Response: NRCS acknowledges the suggestion to target funds specifically towards addressing groundwater depletion in the western region. NRCS currently has multiple initiatives in-place that address the complex challenges of preventing

groundwater depletion across a vast region. These include the WaterSMART initiative, National Water Quality Initiative (expanded in FY 2019 to include source water protection), and others. NRCS believes that an additional program initiative could create undue complexity and reduce state-level flexibility.

Inter-agency Coordination

Comment: Comments about inter-agency coordination related to overall coordination of activities, including comments recommending that NRCS coordinate its program implementation with other Federal agencies, especially BOR.

Response: NRCS has long recognized the importance of Federal agency coordination on water quantity and related issues, and USDA is a member of the Water Subcabinet, the Drought Resilience Interagency Working Group, has a liaison to the Western States Federal Agency Support Team (WestFAST) of the Western States Water Council (WSWC) of the Western Governors' Association, and is permanent co-chair of the National Drought Resilience Partnership. NRCS and the United States Army Corps of Engineers (USACE) recently renewed their agreement to coordinate on infrastructure projects and natural resources conservation in watersheds to benefit communities across the landscape. NRCS facilitates coordination of its program delivery in each State with other federal agencies through its State Technical Committee meetings. Additionally, NRCS participates in meetings held by other Federal or State agencies to ensure that there is high level coordination between the State and regional agency heads of other resource agencies and the broader State Conservation partnership.

Irrigation

Comment: There were multiple comments supporting current efforts from NRCS to address irrigation issues in the West. Several stakeholders requested financial assistance for aging infrastructure such as conveyance systems, municipal and industrial water supplies, and recreational areas. Comments requested that NRCS and other Federal

agencies align their timelines more closely. Comments referred directly to irrigation efficiency and recommended the adoption of advanced conservation technology.

Response: NRCS has several programs that help support the repair or replacement of aging water infrastructure, including through the EQIP assistance to water management entities, the Regional Conservation Partnership Program Alternative Funding Arrangements, and the Watershed Rehabilitation Program under Watershed Operations. NRCS coordinates the assistance available through these programs, targeting different aspects of surface water and conveyance systems. Further, NRCS field offices work with producers on a daily basis to assist them with increasing their irrigation efficiency. Irrigation efficiency is addressed by almost every irrigation-related conservation practice available to our producers.

NRCS furthers the availability of innovative and advanced conservation technologies through an appropriate vetting process to ensure that producers receive a technically sound and operation-appropriate system. NRCS encourages innovators to consider applying for funding opportunities through Conservation Innovation Grants and On-Field Conservation Innovation Trials authorized under the Agriculture Improvement Act of 2018 (2018 Farm Bill, Pub. L 115-334).

There were also multiple comments about financial assistance through NRCS that seem to fall outside of our authority.

Locally-led Conservation

Comment: Comments related to the locally-led conservation process in regards to the 2018 Farm Bill program administration. These comments identified issues related to interaction with the State Technical Committee, local work group functions, and staffing concerns.

Response: NRCS continues to value coordination at the local level to help solve western water quantity issues, which is why NRCS regularly engages local and State

stakeholders through State Technical Committee and local work group meetings. This approach has proven effective by empowering State leaders and coalitions to establish funding priorities that ensure critical resource concerns are allocated proportionate resources.

NRCS supports the installation of site-specific conservation practices that help farmers manage moisture, reduce drought susceptibility, efficiently use irrigation water, and conserve ground and surface water by providing technical and financial assistance towards:

- Installing on-farm irrigation water delivery systems and structures, for example, irrigation ditch lining, irrigation pipelines, micro-irrigation systems, reservoirs, sprinklers, and subsurface systems; and
- Establishing vegetation and improving land management practices, for example, crop row arrangement, drainage and irrigation water management, forage harvest management, nutrient management, crop rotations, residue and tillage management, and cover crops.

NRCS uses interim conservation practices as a mechanism for field testing new technology for addressing water conservation and drought not addressed by the existing NRCS suite of conservation practice standards. For example, two new groundwater recharge practices are being tested in California as described above.

NRCS uses a multitude of tools to document staffing needs by field, area, and State offices. These tools are used to help target staff resources to those areas suffering multiple years of drought to assist producers who wish to install practices that address water quantity and related natural resource concerns.

NRCS Standards and Specifications

Comment: Comments related to NRCS standards and specifications, including coordination of NRCS standards with those of BOR.

Response: NRCS technical leadership will compare NRCS and BOR standards and will identify if there are any potential conflicts. If so, NRCS will work with BOR to identify criteria allowances that are mutually acceptable to NRCS and BOR.

Planning Assistance

Comment: Comments related to planning assistance identified issues related to ground water depletion, water budgets, funding local water supply conservation projects, and coordination with public agencies on regulations and permits.

Response: Through the Watershed and Flood Prevention Operations Program, NRCS provides planning assistance and feasibility studies directly to entities of State and local governments and Tribes in need of help with protecting and restoring small watersheds for multiple purposes including agricultural water management. Agricultural water management may include water supply structures, ground water recharge, and other large infrastructure works of improvement in the community. Such locally-sponsored projects are highly coordinated between sponsoring and regulatory agencies and involve detailed studies before design and implementation can begin. NRCS also provides conservation planning assistance and technical expertise to individual farmers, ranchers, and forest managers wanting to make conservation improvements to the land they manage.

Program Eligibility

Comment: Comments related to NRCS conservation program eligibility as it relates to western water quantity concerns. Comments encourage NRCS to prioritize water quantity more in its programs.

Response: NRCS appreciates the comments and recognizes that addressing drought stress and the need to support drought resilience is increasing the priority that may be placed on water quantity resource concerns. NRCS encourages partners to participate in the locally led process and State Technical Committees to influence where

NRCS places priorities. In addition, these needs are incorporated within the new framework for conservation action described below.

Related Water Quality Issues

Comment: Comments identified issues related to water quality including funding on and off farm irrigation systems, funding community-based organizations, considering the effects of irrigation systems on both surface and ground water resources, flexibility at local and state levels, prioritizing large scale projects, interstate coordination, outcome estimation, final program rules, water infrastructure, climate change impacts, Strike Force areas, the importance of healthy soil and soil moisture management to efficient irrigation water use and water conservation, and the impact of non-native vegetation on watershed hydrology caused by threats to the landscape such as wildfire and feral hogs.

Response: NRCS appreciates the suggestions for fully utilizing its authorities to help communities and individuals across the West address issues related to the supply and quality of water. Specific suggestions for each watershed and conservation program have been received by appropriate national and State level program managers for consideration.

NRCS has developed a framework for conservation as described below to coordinate its programs' resources more effectively with those of other public agencies and private stakeholders in each water resource region and State. Communication strategies will be included to inform the public more effectively about available program resources to achieve desired outcomes for ground and surface waters.

NRCS works in partnership with State Conservation Agencies, State Associations of Conservation Districts, and other types of partners in each State or territory, and with Indian Tribes to expand our reach and put more conservation on the land. NRCS coordinates with other Federal agencies who help States, Tribes, local governments, and

other water resource managers to leverage Federal resources available for achieving water resource conservation outcomes from delivering its programs.

Snow Survey and Water Supply Forecasting

Comment: Comments related to snow survey and water supply forecasting. In general, the comments relate to improving the sharing of information between agencies and entities involved with water supply data collection and having a unified focus on addressing the issues in eastern Oregon.

Response: The NRCS State Conservationist for Oregon has worked in cooperation with Federal and State agency partners to develop and provide water supply condition and data reports. The reports are generated bi-weekly each year to assist in identifying flood potential in near-real-time in the Umatilla River and McKay Creek watersheds in eastern Oregon. These reports can be accessed at the NRCS Oregon Snow Survey website at the following link: https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/or/snow/?cid=nrcseprd854607. Interested parties can sign up (subscribe) to receive the reports at the link as well.

At the request of the Oregon State Climatologist, the NRCS Oregon Snow Survey Supervisory Hydrologist serves as a lead technical consultant to provide guidance for Oregon's input to the National Drought Monitor (DM). The goal of these efforts is to make Oregon's drought designation mimic the national model so that a unified message is provided by the State of Oregon, relating drought to partners and stakeholders.

NRCS Oregon is a lead technical member of the Governor's Drought Readiness Council and Water Supply Availability Committee. The Drought Readiness Council and Water Supply Availability Committee members include Federal and State agency representatives that review drought and water supply conditions monthly to provide input to the Governor's office and to make decisions based upon critical water supply conditions across Oregon.

Soil Health

Comment: Comments expressed that soil health is important, especially in a rangeland setting.

Response: NRCS appreciates this comment supporting soil health and agrees that soil health is very important in rangelands to improve water infiltration and retention.

Source Water

Comment: Comments suggested source water considerations should be a part of the western water quantity strategy. The comments recommended that NRCS consider involving drinking water providers or other source water stakeholders in setting priorities, including in the State Technical Committees.

Response: Protecting drinking water sources is a priority for NRCS and partners and is incorporated into our program implementation as identified by the 2018 Farm Bill. NRCS will continue to address this priority and agrees that having source water stakeholders participating in State Technical Committee meetings is a good idea. Interested stakeholders should contact their NRCS State Conservationists to receive information about State Technical Committee participation.

Water Rights

Comment: Comments suggested that NRCS needs to have greater involvement in processes related to State determinations of water rights, such as a curtailment by a State engineer.

Response: NRCS does not have a role with the purchase, sale, enforcement, or adjudication of water rights under State law.

Wildlife Habitat

Comment: Comments addressed a multitude of wildlife habitat issues.

Response: NRCS has strong relationships with its Federal and State wildlife partners, and greatly appreciates the coordination of its programs with these partners

under the Working Lands for Wildlife (WLFW) partnership. Through WLFW, USDA uses a win-win approach to systematically target conservation efforts to improve agricultural and forest productivity which enhances wildlife habitat on working landscapes. Target species are used as barometers for success because their habitat needs are representative of healthy, functioning ecosystems where conservation efforts benefit a much broader suite of species. NRCS recognizes that water availability is a need for wildlife as well as agriculture, and partners help NRCS to identify mutually beneficial solutions for both.

Framework for Conservation

In January 2021, NRCS convened a working group of State and national subject matter experts to review input received from the public listening session and written comment period. Based on the working group's analysis, NRCS developed a western-focused strategic framework to address challenges posed by water scarcity and guide program delivery at the State and local level. Referred to as NRCS's Western Water and Working Lands Framework for Conservation Action, the broad planning guidance will help NRCS leaders in each State improve their business plans to better address cross-cutting issues related to protecting water resources in their State.

The first step of developing the new framework was completed in the summer of 2021 when State Conservationists briefed State Technical Committees with a summary of input received during the listening session and provided them an opportunity to advise further. NRCS experts reviewed all the input received and formulated strategies for increasing conservation opportunities that address challenges related to managing water resources across western landscapes. The next step will be for NRCS leaders in each

State to use the framework to develop targets for increased conservation actions over the next few years.

Terry Cosby,
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