

2012 COLORADO ISSUES SURVEY

(Preparation for NACo's 2012 Legislative Conference and CCI's Congressional Meetings)

Request:

Please indicate (with an "X") your top 6 federal issues

Background:

On March 7th, Commissioners participating in NACo's Legislative Conference (March 3-7, 2012) will meet with Colorado's US Senators and Representatives. The purpose of this survey is to identify which issues commissioners will discuss with our congressional delegation on Wednesday, March 7th.

In December and early January, staff surveyed CCI members soliciting issues with a multi-county significance that require federal action. The following issues were submitted.

Please indicate (with an "X") your top 6 issues. The 6 issues receiving the most votes will be discussed with Colorado's congressional delegation on March 7th.

_____ **Clean Coal** – Support the use of federal funding and incentives for clean coal technologies and carbon sequestration. While natural gas and renewable energy resources are abundant in Colorado, we need to continue our research and development on clean coal and carbon sequestration so we can satisfy our energy demands in a clean and sustainable fashion. With the reserves of coal that we have, coal stands to be able to bridge our energy needs into a potentially total renewable energy environment. Additionally, coal development in northwest Colorado is critical to Colorado's economy. It provides jobs and affordable electricity for homes and businesses.

_____ **Clean Water Act (CWA) : Guidance Regarding Identification of Waters Protected by the CWA** - The Environmental Protection Agency and the Army Corps of Engineers' Guidance regarding identification of waters protected by the Clean Water Act should be withdrawn and replaced with a formalized rule-making process to solicit comments from state and local governments. In July 2011, NACo outlined their concerns with the draft guidance document. Specifically, they stated their opposition to the draft guidance because: 1.) a formal rule-making process was not used; 2.) state and local governments were not consulted on Federalism and preemption issues; 3.) more analysis is needed on the guidance's impact on all Clean Water Act (CWA) programs; 4.) more waters and their conveyances will fall under Federal jurisdiction; and 5.) the guidance contains contradictory provisions.

_____ **Clean Water Act (CWA) : Stormwater Regulations (NPDES)** – EPA's regulations under the current Clean Water stormwater program are limited to requiring permits at active construction sites. EPA is currently developing new requirements that would require permits to control stormwater discharges after construction has ceased. These could result in new post construction stormwater permits at already built-out sites. The EPA's plan to regulate developed sites and post-construction stormwater discharges exceeds the Agency's statutory authority. The EPA should first conduct a study and then report to Congress before developing new stormwater permit regulations.

_____ **Good Samaritans and Water Quality** – Immediate progress on getting good Samaritan administrative and/or legislative fixes in place so that watershed groups and local governments or other "third party" good Samaritans can improve water quality that is impaired by the numerous abandoned mines in Colorado. Especially areas prone to acid drainage.

--CERCLA seems to provide adequate protection from liability where third party Good Samaritans that are not Financially Responsible Parties are conducting remediation activities such as removal or waste rock or tailings, and or diversion of stream channels.

--No protection from liability for passive remediation projects where the third party improves water quality by installing a filter, wetland filtration, bio-filtration, etc. system and can't actually get the water quality to be fully compliant with Clean Water Act standards. The Good Samaritans under this scenario are still open to citizen lawsuits (because the drainage can be considered point source discharge needing a National Pollutant Discharge Elimination System (NPDES) permit under Section 402 of the Clean Water Act. These Good Samaritans can thus be served with a citizen lawsuit and may be destroyed from such liability. This issue keeps groups from conducting passive and active mitigation projects that would benefit watersheds and headwaters communities, as well as new mining opportunities.

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--Need ability for abandoned mines (maybe 50 -100 years old is a threshold to protect against abuse) to be remediated by Good Samaritans, even if CWA standards can't be attained.

Immigration Reform –. Because the current immigration system, which is the purview of the federal government, is ineffective, unwieldy and backlogged, an unnecessary burden is placed on local jurisdictions and our residents. Support comprehensive immigration reform that achieves the following: Addresses border security and enforcement while providing for a sensible and adequate visa system; reduces immigration backlogs; provides a pathway for legal residency and citizenship for undocumented immigrants that register and can demonstrate certain criteria such as proof of tax payment and clear security and criminal background checks; appropriates federal funding for counties to provide health care and education services to immigrant populations; and precludes new mandates for local governments and states to enforce federal immigration laws.

Lack of oversight for Regulatory Agencies - The EPA is currently developing a series of standards and rules that will be costly and will result in job losses. The EPA must stop circumventing law makers by using the rule making process. Examples of these rules include:

- 1.) New standards requiring costly emissions controls forcing coal units to install equipment that is prohibitively expensive or, in some cases, doesn't yet commercially exist;
- 2.) New rules reducing nitrogen oxide and sulfur dioxide emissions from the current standard of 75ppb to as low as 60 ppb;
- 3.) Potential rules to re-categorize recycled coal residuals as hazardous. These materials are used in the production of cement, drywall, kitchen counters and bowling balls.

Land and water conservation fund - Support full federal funding for the Land and Water Conservation Fund (LWCF) and the LWCF stateside program. These programs provide funding for states and local governments to preserve lands and to provide close-to-home recreation opportunities near urban areas. These programs are critical to the protection of natural, historical, cultural, and recreational resources, and federal funds are crucial for land and water conservation.

Medicaid – Maintain original federal-state-local funding partnership and oppose measures that will shift Medicaid costs to counties

National Broadband Definition and Standards : Cleanup and clarify for policy and grant funding - Standardized definition of Broadband, acknowledge that higher unemployment rates coincide with unserved and underserved areas lacking reliable, affordable, true, wired Broadband backbone and middle/last mile service to communities and key institutions. Administrative changes in policies needed by the FCC and possibly USDA to allow for community consortiums and local governments to utilize grant programs for areas that are underserved. Currently if FCC map shows an area is reported by industry providers as being "served" then FCC funds can only go to industry partner, if at all. Need to be able to obtain FCC maps and map LAYERS that show where any industry/providers claim to provide service so that Counties and communities know which industry/providers are claiming to provide service to those areas. FCC maps for which eligibility is determined are created by industry and are wrong. Local Governments should be able to have the data to show where errors exist, there should be accountability and transparency by industry in reporting service areas, and grants should be able to be obtained by local government groups for infrastructure and middle/last mile solutions where we are underserved or not served. Affordability needs to be part of Broadband definition.

For example Uncompahgre valley has several percentage points higher unemployment and does not have a lit fiber backbone between Durango and Montrose. FCC maps show that Ouray County has broadband service in areas where businesses and citizens say they cannot get service. It is impossible to know which providers are making the claims of service (CenturyLink, ATT, Sprint, Hughes, SkyBeam, etc.). Speeds achieved by areas that are served are much slower and much more expensive than areas like Grand Junction or Denver. 3G is not a reliable, affordable way to get broadband to run a business with employees. It is a way to check your email via cell phone.

"NEXT FOREST" - While we have been absorbed and dealing with the effects of past forest mismanagement, and subsequently the beetle epidemics, we can't lose track of our next mission to have a SUSTAINABLE forest into the next century. This will and should include conversations of forest

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management, thinning, planting, and prescribed management burns. If we do not take advantage of our learning moment in the last forest, the next generation will look to us as the Forest Clowns.

Oil Shale Development - federal legislation providing for the development of oil shale must include a socioeconomic impact analysis of the effects of development and meaningful impact mitigation to help address extraction impacts on surrounding communities.

PILT & SRS Funding –Support full funding of PILT and SRS, reform of the PILT and SRS formulas so that there is a fair and predictable annual compensation for the impacts of federal tax-exempt public lands in Colorado Counties, and compensation through FML for impacts/costs incurred by local governments due to mineral resource activities.

Property Assessed Clean Energy Programs – Support legislative efforts and other forms of administrative resolution or relief in order to continue implementation of property assessed clean energy programs (PACE) finance programs. Boulder County’s ClimateSmart Loan Program (CSLP) is one of the most advanced Property Assessed Clean Energy (PACE) programs in the nation. Until the program was halted in 2010, the residential program generated more than \$10 million in energy efficiency and renewable energy retrofit projects completed by more than 280 local businesses. In June 2010, as a direct result of the May 5, 2010, statements issued by mortgage institutions Fannie Mae and Freddie Mac as well as the Federal Housing Finance Agency, Boulder County was forced to suspend the residential component of the CSLP. Due to the effectiveness of the PACE tool, Gunnison, Pitkin and Eagle counties were developing their own PACE programs and were unable to proceed. With Fannie, Freddie, and the Federal Housing Finance Agency remaining entrenched in opposition to broad implementation of PACE financing, it is clear that Congress must act legislatively to ensure that PACE can flourish as a key economic development and energy retrofit tool.

REAL Colorado Initiative – Increased Federal – Local Government (County) partnership toward working with counties to honor REAL Colorado principles of Responsive, Efficient, Accountable, and strong Local-State-Federal Partnerships as well as taking certain components of the Colorado Counties, Inc.’s REAL initiative into consideration with respect to their legislative priorities and in designing and passing any new federal legislation.

Talking Points:

- in order to effectively serve the needs of Counties and their communities, county officials must have the resources and authority commensurate with the responsibilities placed on them by federal laws, regulations and court decisions.
- federal government must exercise fiscal restraint and responsibility;
- the most effective governance results from local, state and federal officials working in true partnership toward the development and implementation of programs and services;
- federal officials should consider other programmatic models that might exist and the possible limitations on appropriate local control that might result from any new federal legislation, rules or regulations prior to passing new legislation;
- Some counties are incorporating these ideas into their decision making process and hope that our federal legislators will do the same:
 - Decisions based on data and measurable outcomes,
 - Reducing unnecessary and un-funded mandates,
 - Streamlining processes while maintaining desired outcomes,
 - Maintaining funding flexibility,
 - Fiscal responsibility and efficiency,
 - Transparent planning and reporting,
 - Culture change to increase partnership between federal, state, and local governments ,
 - Effective education and communication with stakeholders;

Reauthorization of the Workforce Investment Act – Support legislation that reauthorizes the Workforce Investment Act and upholds Colorado’s model of local control whereby the leadership and governance for workforce activities lies with the Board of County Commissioners. In Colorado, workforce regions work under the leadership and guidance of a business-led Workforce Investment Board (WIB) which has actively engaged local businesses in the creation of a workforce system responsive to the needs of the regional economy. In the last three years, almost 20,000 Colorado residents have been trained for high-demand occupations with Workforce Investment Act funds and 263,646 Coloradoans have obtained employment through workforce services after seeking assistance through a Workforce Center. Colorado’s approach works in preparing workers for today’s 21st Century economy.

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TANF Funding – Support timely reauthorization of appropriations for temporary aid for needy families (TANF) programs. TANF (Temporary Assistance for Needy Families) programs have been helping Colorado provide basic assistance, subsidized jobs and short-term benefits to a growing number of families, a number that is increasing in part because of more people falling into poverty during the current recession. Caseloads have grown exponentially while funding has not. Additionally, Colorado is one of 17 states that received TANF Supplemental funding due to significantly increasing poverty rates in the state. Support timely and full authorization of the TANF Emergency Contingency Fund, TANF Supplemental and other TANF funding.

Transportation Funding – Support timely reauthorization of the federal transportation act with a focus on maintaining and rehabilitating existing infrastructure and creating a sustainable multimodal transportation system funded through a continuation of the federal gasoline tax or other user fees. The reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) federal surface transportation act is occurring at a highly pivotal time for the United States. Our nation’s current transportation system is in urgent need of repair, renovation, and restoration, and must be modified to support increased demand for transportation. Failure to reauthorize or replace SAFETEA-LU will cause unacceptable uncertainty in regional transportation planning and project development processes in Colorado’s Front Range, resulting in increased costs of projects – stemming from increased risk to the private sector – with negative employment impacts and disruptions to important projects. Funding should be achieved through long-term extension of the federal gasoline tax or other user fee at levels necessary to maintain existing funding levels adjusted for inflation. It is a very high priority that reauthorized or new federal transportation legislation include a strong multi-modal focus, including protecting the “Enhancements Funding” category, which is critically important to the region’s sustainability efforts. The current proposed federal legislation (MAP-21) effectively reduces funding for these types of projects, since they would have to compete with other eligible uses in the Enhancements funding pool without a significant increase in the program funding. Any new federal transportation legislation should invest in a transportation system that reduces reliance on fossil fuels by encouraging sustainable transportation programs and projects such as managed HOV/Transit lanes, transit services and programs, transportation demand management, and programs that provide people modal choice.

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