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WESTERN

STATES



WATER

COUNCIL

1976

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WESTERN STATES WATER COUNCIL

220 South 2nd East
Salt Lake City, Utah
(801) 521-2800

1976

ANNUAL REPORT

ORGANIZATION AND ACTIVITIES OF THE COUNCIL IN 1976

Summary of Activities

Under the leadership of Chairman Wesley E. Steiner, the Council completed its eleventh and most productive year since being created in 1965 by the Governors of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Council members are appointed and serve at the discretion of the governors. Each governor has the option to appoint three members to the Council body with alternates named as the state feels the need. Serving this past year with Mr. Steiner, whose home base is Arizona, were Vice Chairman, Chris L. Wheeler from Oregon and Daniel F. Lawrence of Utah as Secretary-Treasurer. As Council Chairman, Mr. Steiner also served as chairman of the Executive Committee and the Management Subcommittee.

The name of the Water Policy and Legislative Committee was changed to the Legal Committee, and the Water Quality Committee was formed at the January Council meeting. With the addition of the third full working committee, new committee charters were developed for all three committees. These charters appear on pages 17, 23 and 29. The Executive Committee met during the year only when specifically called to consider matters of special concern regarding the operation and functions of the Council. The Management Subcommittee of the Executive Committee, pursuant to a resolution adopted by the Council at its October 1975 meeting, handled ordinary matters of Council business and operation. Executive Committee members were thus freed to serve on one of the three working committees.

41st Quarterly Meeting held January 16, 1976 at San Diego, California

Pursuant to the recommendations of the Reorganization Subcommittee established at the preceding Council meeting, a third working committee, the Water Quality Committee, was established and the Water Policy and Legislative Committee was renamed the Legal Committee. Responsibilities were assigned to all three working committees. It was decided the Legal Committee will review and develop recommended Council positions on current legislation, laws, rules and activities relating to water resources, water rights, related land use and Indian issues and examine and keep the Council current on all ongoing pertinent court cases. The Water Resources Committee will review and develop recommended Council positions on current legislation, criteria, plans and problems pertaining to water planning, management, conservation and development for all intended uses of water. The Water Quality Committee will review and recommend Council positions on water quality and environmental considerations and problems relating to the water resources of the Western United States and will especially be concerned with items such as the Federal Water Pollution Control Act and the National Environmental Policy Act. Council members who served on the Reorganization Subcommittee were Chris Wheeler, Harry Pugsley, Ron Robie, Myron Goodson, Jack Barnett and Wesley Steiner, with Don Maughan serving as alternate to Ron Robie. Chairman Steiner appointed Harry Pugsley of Utah to serve as chairman of the Legal Committee, Myron Goodson of Wyoming to serve as chairman of the Water Resources Committee and Don Maughan of California to serve as chairman of the Water Quality Committee.

A resolution reaffirming the Council's position pertaining to Section 404 of P.L. 92-500 and urging Congress to enact S. 1878 and other legislation containing a similar definition of navigable waters was proposed and passed unanimously. (page 31) Mr. Mitch Gould of California made a presentation on new ways California is looking at to store some of its water and described the program of groundwater storage.

William Gianelli, public member of the National Commission on Water Quality and former Council member and Council chairman, spoke on the work being done by the Commission. He discussed the Staff Draft Report with particular emphasis on its treatment of problems in the West. Mr. Gianelli stressed hearing dates and comment deadlines and he strongly urged the members to submit their views and comments to the Commission on the Staff Draft Report.

Tom Choules of Arizona, acting in the absence of Chairman Gene Marsh, reported for the Legal Committee. The committee asked for

Council consideration of two proposed resolutions: (1) asking the National Commission on Water Quality to seek an amendment to P.L. 92-500 to provide separate treatment for agricultural problems, (page 30) and (2) urging Congress to enact S. 1878 or other legislation containing a similar definition of "navigable waters" for purposes of Section 404 of the Federal Water Pollution Control Act. (page 31) Both proposed resolutions were passed unanimously by the Council. Council members recommended that both resolutions be distributed to the Commission by Mr. Gianelli, with the request that they become part of the record of the Commission.

The report compiled by Assistant Director Craig Bell entitled, "Report on Major Federal Water Related Programs Affecting the Use of Non-Federal Lands," was distributed to Water Policy and Legislative Committee members. Committee members were requested to comment within 30 days, so that the report could be put into final form and distributed to each Council member with a copy going to each Governor. A second report entitled, "Indian Water Right Cases in the Eleven Western States" was also distributed to Committee members with the same request.

The Water Resources Committee submitted a resolution proposing a water education project. The resolution as developed by the Education Subcommittee chaired by Ray Rigby was adopted. (page 32) Revised language relating to the Council's adopted "Principles" was discussed. Following comment, the revisions were adopted. (page 33)

A staff study of ongoing energy studies was authorized to be completed with the assistance of a special consultant, and mailed to all western governors and interested individuals. A resolution of appreciation was adopted in behalf of Homer Berry, retiring Council member.

42nd Quarterly Meeting, Albuquerque, New Mexico, April 22, 1976

The appointment of a subcommittee to propose the nomination of Council officers for the July election was announced. Proposed resolutions of appreciation to retiring Council members William Groff, Eugene Marsh, Ted George and Wayne Akin were approved. It was decided that plaques should be prepared and given to Council members while they are still actively engaged in Council activities to show their affiliation. A motion was made and adopted that alternate meetings of the Council be held in Salt Lake City, Utah.

Mr. Paul Bloom, Special Assistant Attorney General for New Mexico, gave a presentation on federal-state legal conflicts in the area

of water resources in New Mexico. Committee Chairmen Tom Choules for the Legal Committee, Myron Goodson for the Water Resources Committee, and Don Maughan for the Water Quality Committee gave reports of the committee meetings actions of the previous day. The Water Quality Committee proposed that an invitation be extended to a high level Corps of Engineers official to address the next Council meeting and many subjects were explored although no formal resolutions resulted.

Four reports were completed by staff and released for distribution, namely, (1) "Bibliography of Selected Reports and Ongoing Studies Related to Water Requirements for Energy Resource Development," (2) Report on Indian Water Right Cases in the Eleven Western States, (3) Major Federal Water Related Programs Affecting the Use of Non-Federal Lands, and (4) the Western States Water Council Annual Report, 1975.

43rd Quarterly Meeting, Kalispell, Montana, July 9, 1976

A resolution concerning the Central Arizona Indian Tribal Water Rights Settlement Act of 1976 was presented by the Legal Committee's acting Chairman, Tom Choules. The resolution was passed unanimously with the recommendation that the Council Chairman present the resolution at the U.S. Senate hearings in August. (page 46) Mr. Choules also proposed for the Legal Committee a resolution on tax exempt bonds to the Council, which also passed unanimously. (page 46)

A proposed study for the U.S. Water Resources Council was discussed and Tom Choules reported the Legal Committee's position that it would be better for the Western States Water Council to do the study independent of outside constraints, if the study was of significant interest for the Council to partake of it at all. There was general concurrence with this recommendation and it was decided that the Council should undertake the study of the availability of water rights information in the member states independent of Water Resource Council funding.

With respect to a proposed study to be sponsored by the Council of State Governments, the Legal Committee suggested that the Western States Water Council undertake the study if it was determined that a particular study would be useful to the western states. Chairman Steiner later responded to the Legal Committee's recommendations by reporting that the Management Subcommittee had instructed Jack Barnett to inform the Council of State Governments that the Western

States Water Council is studying the request and would contact them following a decision. In the meantime, Chairman Steiner would appoint a subcommittee to identify potential studies.

Colonel Robert B. Hughes of the Corps of Engineers gave a detailed presentation on Section 404 of P.L. 92-500. Commissioner of Reclamation, Gilbert Stamm, reported on the aftermath of the Teton Dam disaster. Mr. Stamm cited three areas of concern: (1) what to do with the dam itself, (2) the damage done to irrigation systems, and (3) payment for damages sustained by the people in the area affected. Slides were shown and time given for extensive questioning by Council members.

Nominations for Council officers were made with Wesley Steiner of Arizona being nominated for Chairman and Chris Wheeler, Oregon for Vice-Chairman. A motion was passed unanimously to place them in office by acclamation.

A presentation was given by Orrin Ferris, Administrator, Water Resources Division, Montana Department of Natural Resources and Conservation, on "Poplar River Water Apportionment." Hanley Jenkins II, the Resource Planner for the Montana Department of Natural Resources, reported on the "Upper Flathead River Basin Study."

The Chairmen of the Water Quality and Water Resources Committees reported on their respective meetings. A position statement was presented by the Water Resources Committee concerning amendments to the Water Resources Planning Act as proposed by S. 3142. A motion to adopt the position statement passed following a roll call vote. (page 34)

44th Quarterly Meeting, Alta, Utah, October 15, 1976

Special guest speaker, Utah's Governor Calvin Rampton, addressed the Council. Governor Rampton is past-president of the Western Governors' Conference and immediate past-president of the National Governors' Conference. Governor Rampton, along with Governor Daniel J. Evans of Washington, was present at the 1965 organization of the Western States Water Council. He discussed the reasons behind its formation and the recent efforts of the Governors' Task Force looking at multi-state organizations. He then discussed water resources accomplishments and challenges in the State of Utah. Governor Rampton concluded by saying that he had examined the Western States Water Council in the last few weeks and decided that it should be continued and would so recommend to his fellow governors at the Governors meeting on December 9.

Gary Cobb, Acting Director of the Water Resources Council, briefly summarized the presentation he had made to the Water Resources Committee the preceding day. Dan Lawrence, as Director of the Division of Water Resources for the State of Utah, presented an overview of Utah water matters.

Jack Barnett, Executive Director, reported on the Western Governors' Conference and actions to come out of that meeting that affected the Western States Water Council. A task force organized by 10 governors had put together a "briefing paper." Mr. Barnett reported on the findings in the paper and further planned efforts of the task force. Copies were given to each Council member present.

The three working committee chairmen reported on their respective meetings the previous day. A matter discussed at all three meetings was the proposed study effort in cooperation with the Council of State Governments. This was discussed at great length and the Council ultimately voted to accept the funds offered by the Council of State Governments, and to instruct the staff to prepare recommendations as to the cost and scope of possible study efforts.

COUNCIL MEMBERSHIP

List of Membership for 1976

Chairman
Mr. Wesley E. Steiner—Arizona

Vice-Chairman
Mr. Chris L. Wheeler—Oregon

Secretary-Treasurer
Mr. Daniel F. Lawrence—Utah

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*Ex-Officio Member

**Member of Executive Committee

Staff

| | |
|--------------------------|--------------------|
| Jack A. Barnett | Executive Director |
| D. Craig Bell | Assistant Director |
| Pearl O. Pollick | Office Manager |
| Fae O. Drake | Report Specialist |
| Virginia W. Jensen | Secretary |

BUDGET AND FINANCE

The Budget Subcommittee, chaired by Daniel F. Lawrence, reported to the Executive Committee at the April 22, 1976 meeting in Albuquerque, New Mexico. The Council began FY '76 with \$110,799 in reserve from previous assessments and interest earnings. A FY '77 budget was recommended by the Subcommittee of \$155,100 with state assessments at \$13,000 each. A budget and associated assessments were unanimously approved by the Council.

The firm of Hansen, Barnett and Maxwell, Certified Public Accountants, 345 East Broadway, Salt Lake City, Utah 84111, served as auditors of the Council finances and accounting. The audit showed the Council accounts, records, and expenditures to be correct and proper. Council funds are invested through the Treasurer of the State of Utah. These funds are in a position where they can be audited and accounted for at any point. The collection of revenues and the disbursement of funds through the first six months of the 1976 calendar year are identified on a page of the auditor's report that has been reproduced and made a part of this annual report.

**WESTERN STATES WATER COUNCIL
GENERAL FUND**

**Statement of Revenue and Expenditures and Fund Balance
For the Year Ended June 30, 1976**

| | <u>Actual</u> | <u>Budget Note D</u> | <u>Actual Over- (Under) Budget</u> | <u>Actual Prior Year</u> |
|---|--------------------------------|--------------------------------|--|----------------------------------|
| <u>Revenues</u> | | | | |
| Member States' assessments .. | \$143,000 | \$143,000 | \$ | \$ 55,000 |
| Interest income | 9,707 | | 9,707 | 12,207 |
| Other | 9,346 | | 9,346 | 11,631 |
| Total Revenues | <u>\$162,053</u> | <u>\$143,000</u> | <u>\$ 19,053</u> | <u>\$ 78,838</u> |
| <u>Expenses</u> | | | | |
| Salaries | \$ 72,278 | \$ 73,500 | \$ (1,222) | \$ 68,032 |
| Printing and reproduction | 10,167 | 11,500 | (1,333) | 13,209 |
| Travel | 16,835 | 20,600 | (3,765) | 12,242 |
| Rent | 7,453 | 9,500 | (2,047) | 9,019 |
| Payroll taxes and employee benefits | 6,377 | 7,500 | (1,123) | 7,359 |
| Telephone | 4,742 | 5,000 | (258) | 4,757 |
| Contract services | 3,057 | 6,250 | (3,193) | 3,124 |
| Furniture and equipment | 1,726 | 3,000 | (1,274) | 2,546 |
| Postage | 2,700 | 2,700 | | 2,400 |
| Office supplies | 2,100 | 2,100 | | 1,795 |
| Unforeseen contingencies | 1,454 | 2,000 | (546) | 1,323 |
| Reports and publications | 1,339 | 1,500 | (161) | 1,031 |
| Meetings and arrangements .. | 521 | 900 | (379) | 445 |
| Accounting | 545 | 600 | (55) | 400 |
| Insurance | 383 | 600 | (217) | 319 |
| Bank charges | 11 | | 11 | 8 |
| Total Expenditures | <u>\$131,688</u> | <u>\$147,250</u> | <u>\$(15,562)</u> | <u>\$128,009</u> |
| Excess (Deficiency) of Revenues Over Expenditures | 30,365 | (4,250) | 34,615 | (49,171) |
| Fund Balance—Beginning of Year | <u>100,474</u> | <u>100,474</u> | <u>.....</u> | <u>149,645</u> |
| Fund Balance—End of Year | <u><u>\$130,839</u></u> | <u><u>\$ 96,224</u></u> | <u><u>\$ 34,615</u></u> | <u><u>\$100,474</u></u> |

Water Quality Committee

Members of the Water Quality Committee for 1976

| | |
|--------------------------|----------------------|
| Arizona | New Mexico |
| Froilan Cota | Steve E. Reynolds |
| California | Oregon |
| W. Don Maughan, Chairman | Chris L. Wheeler |
| Colorado | Utah |
| Harris D. Sherman | Thorpe A. Waddingham |
| Idaho | Washington |
| Herman J. McDevitt | Fred D. Hahn |
| Montana | Wyoming |
| Donald G. Willems | George Christopulos |
| Nevada | |
| Hal Smith | |

1976 Meetings

| | |
|------------------|-------------------------|
| April 22 | Albuquerque, New Mexico |
| July 8 | Kalispell, Montana |
| October 14 | Alta, Utah |

The Water Quality Committee was organized by a resolution adopted by the Executive Committee and the full Council in January 1976 at the San Diego, California meeting. The committee was assigned to review and develop recommended Council positions on water quality and environmental standards and problems relating to the water resources of the western United States. Membership on the Water Quality Committee is by appointment by the states of the Council. Each state selects one member, although the committee member need not be one of the states delegates to the Council. Any water quality member may designate an alternate to serve in his absence. A quorum consists of six (6) members, and a majority of those members present and voting is required for committee action. Each state is entitled to one vote. The committee chairman is appointed by the Chairman of the Council from the membership of the committee and serves at the Council Chairman's pleasure. The committee chairman is authorized

to appoint a vice chairman and subcommittees as necessary and to request the staff to furnish appropriate assistance. The committee is to meet at the call of the committee chairman. The committee is not authorized to make any public statements or reports except as directed by the Council or the Executive Committee.

Albuquerque Meeting

The first meeting of the Water Quality Committee took place in Albuquerque, New Mexico on April 22, 1976. The committee first took up a discussion of the recommendations of the National Commission on Water Quality and the efforts of the National Governors' Conference to amend the Federal Water Pollution Control Act. It was the consensus of the committee that it was important to sort out the areas in the Act which the Council could most effectively address. As a result, the staff was instructed to make recommendations for consideration at the next committee meeting relating to issues which should be of major importance to the committee and which could be most effectively addressed by the Western States Water Council.

The committee then discussed pending amendments before Congress concerning Section 404 of the Federal Pollution Control Act. Craig Bell of the staff reviewed the Council's position, staff efforts to communicate that position, and the current status of Section 404 amendments in Congress. Jim Fish of the Interstate Conference on Water Problems also reported on the activities of his organization relating to the Section 404 programs, and in particular, a study undertaken by ICWP concerning state laws pertaining to dredge and fill activities, similar to those regulated under Section 404. The committee also heard from George Christopulos concerning the Corps of Engineers action on the Laramie River in Wyoming.

There followed a general exchange of information between the members as to what their respective states were doing in terms of implementing the Safe Drinking Water Act and the National Permit Discharge Elimination System Program under the Federal Water Pollution Control Act.

Kalispell Meeting

The committee next met in Kalispell, Montana on July 8, 1976. The committee first heard from the staff concerning proposed Senate and House amendments to the Federal Water Pollution Control Act. The committee discussion centered particularly on proposed changes to Section 404 of the Act.

Jack Barnett of the staff next explained the staff efforts to make recommendations as to the proposed work effort of the Water Quality

Committee on amendments to P.L. 92-500. Many organizations have been contacted and the staff had prepared a discussion paper for consideration by committee members concerning 11 recommendations or suggestions for a committee work agenda. After each recommendation was read and discussed, it was decided that the committee would organize a subcommittee to study irrigation agriculture. It was further decided that a joint water resources/water quality subcommittee should be formed to study the planning aspects of 92-500. It was also determined to set up a joint legal/water quality subcommittee to consider the legal implications of 92-500. Chairman Maughan expressed hope that the subcommittees could meet before the October meeting so they could report as to their progress.

The committee next addressed the Safe Drinking Water Act. Each state was asked to give a brief comment or oral report on the status of the implementation of the Act in their respective states. In a similar fashion, each state was asked to evaluate the NPDES program in their respective states under the Federal Water Pollution Control Act. Craig Bell also gave a brief report on the so-called "Flannery Case" which struck down EPA's initial regulations exempting certain point source categories, including irrigators of less than 3,000 acres.

The Water Quality Committee was then pleased to hear from Bob Emmett, Chief of the Legal Branch for the Division of Water Enforcement of the Environmental Protection Agency, and Kathy Anderson, Attorney for the Division, on matters of interest to the committee. Mr. Emmett discussed the future of Section 208 planning, especially with respect to the role the NPDES permit program would play in enforcing 208 plans. Mr. Emmett also addressed the enforcement philosophy of EPA with respect to violators of the Act and the Act's deadlines for compliance. Mr. Emmett explained the recently promulgated EPA policy concerning assurances of non-enforcement for violation of the July 1, 1977 deadline assuming certain conditions are met. Kathy Anderson discussed the "Flannery Case" and the status of regulations being drafted to implement the NPDES program for agriculture. Ms. Anderson also discussed the potential impacts of 92-500 on western state water laws and interstate compacts. It was decided that the discussion with Mr. Emmett and Ms. Anderson was very helpful and that a more complete discussion of the subject matters would be desirable. Therefore, it was decided to invite them to another joint meeting of Legal and Water Quality Committees to be held sometime in mid-August. This meeting was held August 20 in San Francisco and involved a more detailed and informative discussion of the subjects addressed at the July meeting. There was also a discussion by state

representatives concerning the issues and the problems they perceived concerning the delegation of the 402 permit program to the states, and amendments to the Federal Water Pollution Control Act.

Alta Meeting

The committee next met in Alta, Utah on October 14. The committee first heard the report of the irrigation agriculture subcommittee. The subcommittee had met on September 27 in Salt Lake City and outlined various alternatives that might be considered by the Council with respect to the irrigation agriculture area. It had been decided to review the proposed irrigation agriculture regulations and propose amendments to the Act itself in the irrigation agriculture area. The subcommittee then planned to meet again on December 7th in San Francisco to discuss their proposed changes to the regulations and legislation. A discussion followed concerning the work of the subcommittee and the problems of the member states and the approach of EPA to regulating irrigation agriculture under 92-500.

The committee next addressed the proposal of the Council of State Governments to fund a study in the water resources area by the Western States Water Council. The committee voted not to accept the funds offered by the Council of State Governments, but to direct the staff to prepare for Council consideration, an outline of a study of water resources management problems related to P.L. 92-500, giving an estimate of the costs of such a study.

The committee next addressed two draft resolutions which had been prepared by the staff pursuant to the instructions of the Water Quality Subcommittees. One resolution addressed the relationship of water quality and water resources planning, and the other urged an extension of the time of which 208 plans must be prepared under P.L. 92-500. There was no intention that there be action taken on these resolutions at this time. The resolutions had been circulated to committee members merely for their consideration and discussion.

The committee next heard from Don Paff of Nevada concerning the water quantity planning perspective on the integration of water quality and water quantity planning. Chairman Don Maughan discussed the water quality planning perspective.

The committee then heard from Lynn Thatcher, Director of the Division of Environmental Health for the State of Utah, concerning the proposed underground water injection regulations under the Safe Drinking Water Act.

WATER QUALITY COMMITTEE CHARTER

Objective

The committee shall assist in initiating, establishing and carrying out objectives of the Council by providing guidance on the water quality and environmental aspects of all programs of interest to the Council.

Program

To review and develop recommended Council positions on water quality and environmental standards and problems relating to the water resources of the Western United States.

Organization

Committee membership is by appointment by the states of the Council. One member shall be from each state, but need not be one of the state's delegates to the Council. Any Water Quality Committee member may designate an alternate to serve in his absence. A quorum shall consist of six (6) members. A majority of those members present and voting is required for committee action. Each state shall have one vote. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

A committee chairman shall be appointed by the Chairman of the Council from the committee membership and serve at his pleasure. The committee chairman will appoint a vice chairman and subcommittees as needed. The staff of the Council shall furnish such assistance to the committee as is requested. A member of the staff will serve as secretary.

Meetings

The committee shall meet at the call of the committee chairman.

Reports

The committee shall submit reports and/or recommendations to the Council and to the Executive Committee as requested. The committee shall not issue any public statements or reports except as may be directed by the Council or the Executive Committee.

Charter Adoption

This Charter of the Water Quality Committee of the Western States Water Council was adopted by resolution on January 16, 1976 at the meeting of the Council in San Diego, California.

Legal Committee

Legal Committee members — 1976

| | |
|--------------------------------|-----------------------------------|
| Arizona Tom Choules | New Mexico George Hannett |
| California Ronald B. Robie | Oregon Chris L. Wheeler |
| Colorado Raphael J. Moses | Utah Harry D. Pugsley—Chairman |
| Idaho Ray W. Rigby | Washington Charles B. Roe, Jr. |
| Montana Henry Loble | Wyoming Willard C. Rhoads |
| Nevada Roland D. Westergard | |

1976 Meetings

| | |
|------------------|-------------------------|
| April 22 | Albuquerque, New Mexico |
| July 8 | Kalispell, Montana |
| October 14 | Alta, Utah |

To more appropriately reflect the changes in the committee's assignment pursuant to an internal reorganization of the Council, the name of the Water Policy and Legislative Committee was changed to the Legal Committee. This change was approved first by the Executive Committee and then the full Council at the January 1976 meetings in San Diego, California. The Legal Committee is to review and develop recommended Council positions on current legislation, laws, administrative rules and activities relating to water resources, water rights, related land use and Indian issues. Committee members are also to examine and keep the Council current on all ongoing pertinent court cases.

Committee membership is by appointment by the states of the Council. Each state designates one member, who need not be one of the state's delegates to the Council. Any committee member may designate an alternate to serve in his absence. A quorum necessary for

committee action consists of six (6) members. A majority of those members present and voting is required for committee action. Each state has one vote.

A committee chairman is selected from the committee membership by the Council Chairman and serves at his pleasure. The committee chairman may appoint task groups or subcommittees as he deems necessary. The Council staff furnishes assistance as requested. The committee meets at the pleasure of the committee chairman and submits reports and recommendations to the Council. The Legal Committee is not authorized to issue any public statements or reports.

San Diego Meeting

The changes in the name and responsibilities of the Water Policy and Legislative Committee did not take place until after the January meetings. Therefore, the Water Policy and Legislative Committee held its last meeting in January in San Diego.

Water quality matters continued to be of interest to the committee. A resolution was introduced and passed by the committee concerning implementation of an earlier Council resolution regarding Section 404 of P.L. 92-500. The new resolution recommended to Congress the enactment of Senate bill 1878, which would change the definition of "navigable waters" for purposes of Section 404. The committee also discussed several water quality cases presently pending in the federal courts.

The committee also discussed the prospects for a national land use planning act and a report prepared by the Council on pending and potential Indian water right cases in member states. Recommendations were made with respect to updating the report and obtaining supplemental data. Led by Harry Pugsley, chairman of the Legal Review Subcommittee, the committee then undertook a discussion of significant court cases primarily involving water rights.

The committee next discussed the recommendations of the National Commission on Water Quality with the object of recommending a resolution to the full Council proposing changes in P.L. 92-500 relating to irrigated agriculture. The committee was ably assisted by William Gianelli, a member of the National Commission on Water Quality and former chairman of the Western States Water Council.

Albuquerque Meeting

The new Legal Committee met in Albuquerque, New Mexico, April 22, 1976. The committee first examined a bill entitled "The Central Arizona Indian Water Rights Settlement Act of 1976." This bill was

introduced by Senator Kennedy as a means of settling the question of Indian water rights entitlements of the five Central Arizona tribes. Several objections to the bill were pointed out and it was decided that a subcommittee should be appointed to draft a position on the bill to recommend to the full Council for the next Council meeting in July. Craig Bell of the staff reported litigation developments of interest to the Council and also on two reports prepared by the Council staff. The first was a report on Indian water rights cases in the eleven western states and the second concerned non-federal land use impacts of major federal water-related programs. The committee also heard from Ray Rigby, Chairman of the Interstate Conference on Water Problems, concerning coordination of legal efforts of national and regional organizations with the Western States Water Council.

Mr. Randall Stevens of the Federal Energy Research and Development Administration gave an interesting presentation on a study being undertaken to identify relationships between geothermal resources development and state water laws. Ray Moses of Colorado next addressed the committee concerning the Supreme Court's decision in the *Akin* case. Mr. Moses advised that, while Colorado was naturally very happy about the decision, that the criteria set down by the court were subjective in many respects and therefore unpredictable. Therefore, being first to the court house remained an important objective in obtaining state jurisdiction of water rights adjudications. George Hannett of New Mexico next discussed the state's water litigation procedures and present controlling decisions. A discussion then followed concerning the proposed work program for the Legal Committee.

Kalispell Meeting

The committee next met in Kalispell, Montana on July 8th. Since the last Council meeting, a subcommittee consisting of Tom Choules, Ray Rigby and Roland Westergard had developed a proposed position on the proposed "Central Arizona Indian Tribal Water Rights Settlement Act of 1976." Two minor changes were made and the resolution was passed for consideration by the full Council.

Roland Westergard next reported on the Supreme Court's decision in *Cappaert v. United States*, known as the "Pupfish Case." Mr. Westergard expressed several concerns about how this decision would affect the states in the future. The committee also heard a presentation from Ted Doney on Montana water laws and procedures and then a review by Craig Bell of the staff of recent legal developments, with particular regard to a case involving the New Melones project in California. Pursuant to instructions of the Legal Committee, Mr. Bell had prepared a model brief for California's use in soliciting other states

to support California's position in that case. California was ultimately successful in obtaining an endorsement of the brief from 15 other states, all the reclamation states besides California. Mr. Bell also discussed another staff effort relating to a survey of member state laws that pertain to interstate, interbasin transfers. A preliminary draft of this report was distributed to committee members, who were asked to check the accuracy of the report and communicate to Mr. Bell any changes, revisions or additions that should be made.

Ray Rigby introduced a proposed resolution on tax exempt bonds. A slight change in the resolution was approved after which the resolution was adopted. The committee then heard a report from Wayne Haas concerning a proposed study to be funded by the United States Water Resources Council. This federal agency was proposing that the Western States Water Council undertake the study to deal primarily with the availability of water rights information at the state level. After considerable discussion, the committee decided that the Council itself should undertake a survey of the status of state water rights and that no federal funds should be taken.

Alta Meeting

The next meeting of the Legal Committee was held in Alta, Utah, October 14th. The meeting began with a review of recent litigation developments of interest and a report on the activities of the American Indian Policy Review Commission. The committee then heard a presentation by Dallin Jensen, Assistant Attorney General for the State of Utah, concerning Utah's water litigation procedures and recent developments.

The committee took up Senator Kennedy's response to the Council's position on the Central Arizona Indian Tribal Water Rights Settlement Act. Tom Choules took the lead in discussing the Senators letter. Following the discussion, it was decided that a proposed response should be prepared by Jack Barnett, Executive Director, with the assistance of Mr. Choules.

Professor Dan Tarlock of the University of Indiana reported on the study which he was undertaking for the Energy Research and Development Administration concerning geothermal development and state water rights. The committee also heard a report from Jack Barnett concerning the status of the Council's study on the availability of water rights information in the member states.

The Legal Committee members took up the proposition of the Council of State Governments to sponsor a study by the WSWC in the water resources area. At the last Council meeting, the Council

decided that, if the Council could determine an area of study of significance to the Council, that it would agree with the Council of State Governments to undertake the study. Several potential studies had been identified and the Council Chairman had requested each committee to come up with a recommendation as to which study should be undertaken. Considerable discussion followed during which the Legal Committee members first addressed the question of whether or not the study should be undertaken at all. Ultimately, the Committee voted: (1) to recommend to the Council that it not accept monies from the Council of State Governments; (2) that, of those recommended, the committee preferred the one examining the impacts of P.L. 92-500; and (3) that the committee would make no final recommendation as to the 92-500 study until the committee had more information concerning its scope and costs.

As a final action, the committee authorized Charlie Roe to form a subcommittee to organize a meeting to study the reservation doctrine. The meeting would be generally for assistant attorney generals representing the states in water matters and would deal with common problems encountered in dealing with the federal government's claims under the reservation doctrine.

Objective

LEGAL COMMITTEE CHARTER

The committee shall assist in initiating, establishing and carrying out the objectives of the Council by providing guidance on the social, ethical, legal and political aspects of the programs relating to water resource and water quality.

Program

To review and develop recommended Council positions on current legislation, laws, administrative rules and activities relating to water resources, water rights, related land use and Indian issues and to examine and keep the Council current on all ongoing pertinent court cases.

Organization and Voting

Committee membership is by appointment by the states of the Council. One member shall be from each state, but need not be one of the state's delegates to the Council. Any Legal Committee member may designate an alternate to serve in his absence. A quorum shall consist of six (6) members. A majority of those members present and voting is required for committee action. Each state shall have one vote. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

A committee chairman shall be appointed by the Chairman of the Council from the committee membership and serve at his pleasure. The committee chairman will appoint a vice chairman and subcommittees as needed. The staff of the Council shall furnish such assistance to the committee as is requested. A member of the staff will serve as secretary.

Meetings

The committee shall meet at the call of the committee chairman.

Reports

The committee shall submit reports and/or recommendations to the Council and to the Executive Committee as requested. The committee shall not issue any public statements or reports except as may be directed by the Council or Executive Committee.

Charter Adoption

This Charter of the Legal Committee of the Western States Water Council was adopted by resolution on January 16, 1976, at the meeting of the Council in San Diego, California.

Water Resources Committee

Water Resources Committee Members—1976

| | |
|--|--------------------------------------|
| Arizona Wesley E. Steiner | New Mexico Senator Odis L. Echols |
| California Senator Howard Way | Oregon Chris L. Wheeler |
| Colorado C. J. Kuiper | Utah Daniel F. Lawrence |
| Idaho George Yost | Washington Norman L. Krey |
| Montana John E. Acord | Wyoming Myron Goodson—Chairman |
| Nevada Donald L. Paff—Chairman (10-73 to 1-76) | |

1976 Meetings

| | |
|------------------|-------------------------|
| January 15 | San Diego, California |
| April 22 | Albuquerque, New Mexico |
| July 8 | Kalispell, Montana |
| October 14 | Alta, Utah |

The purpose of the Water Resources Committee is to assist in initiating, establishing and carrying out the objectives of the Council by providing guidance on water resources planning, conservation, and developments that are of common interest to the eleven western states. To this end, the committee reviews and develops recommended Council positions on current legislation, regulations, criteria, plans and problems relating to water planning, management and conservation.

Committee membership is by appointment by the states of the Council, one member from each state. A quorum consists of six (6) members, and a majority of those members present and voting is required for committee action. Each state has one vote. The committee chairman is appointed by and serves at the pleasure of the Council Chairman.

San Diego Meeting

Warren Fairchild, Director of the United States Water Resources Council, presented a report to the committee on the Section 80(c) study and the 1975 National Assessment. After his presentation, Mr. Fairchild answered questions concerning these subjects by committee members. The committee was also pleased to hear from Mr. Kenneth Kaufman, Plans Coordinator and Reports Branch Chief with the Bureau of Reclamation in Denver, Colorado. Mr. Kaufman discussed the Westwide Report and state comments on the Report with the committee. Each of the committee members was asked by Chairman Paff concerning their respective state's response to the Westwide Report.

The committee also discussed the status of their report on ongoing water for energy studies. Material had been prepared for committee members to give them an idea of what the final product should be. The committee determined the appropriate timetable and distribution for the report upon its completion.

Albuquerque Meeting

The committee was pleased to hear from Randall Stevens of the Energy Research and Development Administration concerning the relationship between water and geothermal resources and some of the unresolved problems in geothermal resources development. Following the presentation by Mr. Stevens, committee members took the opportunity to ask several questions. The committee was also informed concerning studies being undertaken by the Western Interstate Nuclear Board and the Water Resources Council with respect to water for energy.

The committee discussed the Western States Water Council report entitled, "Bibliography of Selected Reports and Ongoing Studies Related to Water Requirements for Energy Resource Development." The report identified 96 independent organizations that have reports or studies in progress concerning water for energy. These included 22 divisions of the federal government, 15 multi-government organizations, and 27 private organizations. More than 280 study efforts were described in the report with about 150 of those being federal agency efforts. Three hundred copies of the report had been prepared.

The committee also addressed proposed amendments to the Water Resources Planning Act. The bill under discussion, Senate Bill 3142, had been developed by Senator Church after hearings which included testimony from the Western States Water Council. It was decided that a subcommittee should be appointed to review, and make recommendations on the proposed amendments and report back to the committee at the July meeting.

The committee also heard from Wes Steiner concerning legislation to be introduced to provide water by eminent domain to five Central Arizona Indian tribes.

Kalispell Meeting

The first item on the agenda at the Kalispell meeting concerned water for energy studies. Jack Barnett, Executive Director, reported on the efforts of the Western Interstate Nuclear Board to update their energy report, which analyzes the potential for energy development in the West to the year 1990. The distribution of the bibliography on water for energy was discussed and it was decided that, in light of demand for copies of the study, that an additional 500 copies should be printed. Jim Fish of the Interstate Conference on Water Problems (ICWP) reported on the initiative of the United States Water Resources Council (WRC) to undertake water for energy studies in connection with Section 13 of the Energy Research and Development Act. One of the potential efforts would be to provide money to the Western States Water Council to expand its energy bibliography to the entire nation. A second study effort being proposed was a contract with the Western States Water Council to look at the availability of water right information for energy development in the western states and to further recommend how water right information might be made more available as energy studies progress. The committee decided that it would not be wise to involve the Council in outside contracts to undertake study efforts. However, it would be appropriate for the Council to provide cooperation and assistance to ICWP, if it undertakes these study efforts with funds provided by WRC.

The committee heard from the Water Resources Planning Act Subcommittee with respect to their work on the amendments to the Act as proposed by S. 3142. After considerable discussion and review by the committee, the proposed position statement developed by the subcommittee was approved with some modifications and with one dissenting vote. The committee also considered a bill that had passed in the Senate and was now before the House, which would direct the Soil Conservation Service (SCS) to inventory natural resources, including water, within the jurisdiction of SCS. There was a feeling in the committee that there was not yet enough known about the impacts of the proposed legislation, and so the committee decided to defer consideration of the bill until there was more opportunity to understand its implications and for the staff to provide information and answer questions raised by committee members.

Keith Higginson of Idaho gave a report on the failure of the Teton Dam located in southeastern Idaho. Mr. Higginson gave details con-

cerning the construction of the dam, its physical characteristics, and other physical circumstances preceding the failure. He addressed in detail the events on the day of the failure and its impacts which resulted in the loss of 11 lives and an estimated billion dollars in property damage and property losses. Mr. Higginson also described efforts of his department and the Bureau of Reclamation in the rehabilitation of some 65 canals which suffered damage from the flood. He also described the assignment and scope of work of an investigative panel which had been formed by Secretary of Interior Kleppe and Governor Andrus of Idaho. The assignment of the panel was to determine the cause of the dam failure. The panel would have some \$300,000 for the investigation and expected to have a preliminary report of its findings prepared by August.

The committee considered the offer of the Council of State Governments to provide \$10,000 to the Western States Water Council to undertake a study in the water resources area. It was determined by the committee that all three working committees should come up with suggestions for a study, and that, if a study could be identified which would be useful to the Council, then it could accept the offer of the Council of State Governments.

Alta Meeting

The committee listened to a presentation by Gary Cobb, Acting Director of the U.S. Water Resources Council (WRC) concerning the National Assessment efforts of the Council. Mr. Cobb was assisted by Ken Murdock of the Department of Army and Lance Marston of the Department of Interior. Mr. Cobb explained the new thrust in WRC's National Assessment program and new direction for Title III of the Water Resources Planning Act. Following Mr. Cobb's comments, there was a lengthy discussion involving Council members and the federal representatives.

The committee again undertook a discussion of water for energy studies. The committee heard from Jack Barnett concerning the just-published report of the Western Interstate Nuclear Board. The committee also reviewed the contract between the Interstate Conference on Water Problems (ICWP) and the WRC to assess water availability for energy. ICWP had also agreed to assist the Nuclear Regulatory Commission in assessing constraints in state laws concerning siting of energy plants. Jim Fish, on behalf of ICWP, requested that a representative of the WSWC sit on the ICWP Project Management Committee to provide western input, and that a workshop relating to the Nuclear Regulatory Commission portion of the study be held in January in conjunction with the Western States Water Council's

normal quarterly meeting. Several questions were asked of Mr. Fish concerning the product expected from their study efforts and its costs and scope. The committee then decided that it would be wise to have a representative of the WSWC on the management team and Jack Barnett was designated as this representative. The staff was also instructed to provide cooperation and assistance to ICWP.

With respect to the Council's own water for energy efforts, it was concluded that the staff should be instructed to analyze the recent report of the Western Interstate Nuclear Board to suggest to the committee at its January meeting the courses of action the committee should take in updating the previous Council energy report.

Jack Barnett reported on the panel investigating the Teton Dam failure. Mr. Barnett explained that the panel's final report was now being written and would be released about the 1st of January. It was expected that the panel would be able to make some positive conclusions about the causes of the dam failure.

C. J. Kuiper, State Engineer for the State of Colorado, reported on a recent flood in his state in Big Thompson Canyon. He reported on the cause of the flood and the resulting 139 deaths. Mr. Kuiper also described the clean-up efforts and several pictures were provided for committee review by Mr. Kuiper. Damages were estimated in the range of \$1 billion. A discussion followed concerning the impacts of the Big Thompson flood with respect to future dam safety programs and efforts.

The committee also discussed the federal dam inspection program. After the facets of the federal program were explained, it was decided that a subcommittee should be appointed to examine the desirability of updating the Council's resolution of 1972 which asked the Corps of Engineers to maximize the use of existing state programs and initiatives in their federal dam safety program. The subcommittee was instructed to make their recommendations at the January meeting.

WATER RESOURCES COMMITTEE CHARTER

Objective

The committee shall assist in initiating, establishing and carrying out objectives of the Council by providing guidance on water resources planning, conversation, and developments that are of common interest to the eleven Western States.

Program

To review and develop recommended Council positions on current legislation, regulations, criteria, plans and problems relating to water planning, management and conservation development for all purposes, and utilization.

Organization

Committee membership is by appointment by the states of the Council, one member from each state, but not necessarily one of the state's delegates to the Council. Any Water Resource Committee member may designate an alternate to serve in his absence. A quorum shall consist of six (6) members. A majority of those members present and voting is required for committee action. Each state shall have one vote. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

The committee chairman shall be appointed by the Chairman of the Council from committee membership. The committee chairman will appoint a vice chairman, and subcommittees as needed.

The Council staff will furnish necessary assistance as desired and requested by the committee. A member of the staff will serve as secretary.

Meetings

The committee will meet at the call of the committee chairman.

Reporting

The committee shall submit its reports and/or recommendations to the Council and to the Executive Committee if so requested. The committee shall not issue any public statements or reports except as may be directed by the Council and the Executive Committee.

Charter Adoption

This Charter of the Water Resources Committee of the Western States Water Council was adopted by resolution on January 16, 1976, at the meeting of the Council in San Diego, California.

RESOLUTIONS—POSITIONS—MOTIONS

Resolution B

RESOLUTION

by
WESTERN GOVERNORS CONFERENCE
Concerning the Creation of the
WESTERN STATES WATER COUNCIL
June 13, 1965

WHEREAS, the future growth and prosperity of the western states depend upon the availability of adequate quantities of water of suitable quality; and

WHEREAS, the need for accurate and unbiased appraisal of present and future requirements of each area of the West and for the most equitable means of providing for the meeting of such requirements demands a regional effort;

NOW THEREFORE, BE IT RESOLVED by the Western Governors' Conference that it approves the creation of a Western States Water Council to be established in general conformity with the organizational pattern of the attached SUGGESTED RULES OF ORGANIZATION developed by the Western Water Resources Task Force appointed by the members of this Conference; and

BE IT FURTHER RESOLVED, that the members of this Conference will take all feasible steps to provide the support to give effective meaning to the creation of such a Council including the establishment, upon recommendation of the Council, of a staff and central office to be financed in an amount not to exceed the sum of \$150,000 for the first year from appropriations by each of the member states equally.

Resolution 52.(1-76)

RESOLUTION

of the
WESTERN STATES WATER COUNCIL
Regarding the
FEDERAL WATER POLLUTION CONTROL ACT
San Diego, California
January 16, 1976

WHEREAS, the National Commission on Water Quality is now preparing its final report pertaining to the Federal Water Pollution

Control Act and has requested the views of various interests of the Nation; and

WHEREAS, one of the areas of continued controversy involved in the Federal Water Pollution Control Act pertains to the regulation of agricultural irrigation; and

WHEREAS, the Federal Water Pollution Control Act was not designed to deal effectively with agricultural irrigation; and

WHEREAS, the states are interested in developing effective programs of water pollution control pertaining to agricultural irrigation.

NOW THEREFORE BE IT RESOLVED that it is recommended to the National Commission on Water Quality that P.L. 92-500 be amended to provide for funding, planning and regulatory programs for pollution control as it pertains to agricultural irrigation activities, separate and apart from existing statutory and regulatory programs, with primary responsibility for the new programs vested in the states; said new programs to be designed so as to allow for maximum flexibility, taking into consideration matters of local nature.

Resolution 53.(1-76)

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Regarding
SECTION 404 OF P.L. 92-500
San Diego, California
January 16, 1976

WHEREAS, the Western States Water Council passed a resolution pertaining to Section 404 of P.L.92-500 on October 10, 1975 in Austin, Texas, which was consistent with an earlier resolution passed by the Western Governors' Conference.

NOW THEREFORE BE IT RESOLVED that the Council reaffirms its resolution of October 10, 1975 pertaining to Section 404, P.L. 92-500 of the Federal Water Pollution Control Act and urges the Congress to enact S. 1878 or other legislation containing a similar definition of navigable waters.

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Concerning
WATER EDUCATION IN THE
WESTERN UNITED STATES
San Diego, California
January 16, 1976

WHEREAS, the Western States Water Council has determined it is of the utmost importance that our citizens be educated concerning the many and varied uses of water, the prudent management thereof, and the important choices and decisions that must be made in the future; and

WHEREAS, the Western States Water Council has retained a consultant and directed staff to explore the various alternatives to accomplish better education of our citizens with respect to the extent and utilization of water resources; and

WHEREAS, the Western States Water Council is well equipped to serve as a catalyst to bring together educators and various water industry and state government entities to accomplish this education effort but recognizes that such groups should only gather as much information as possible on the many uses of water and present them to the proper designated agencies of each state charged with the responsibility of developing curriculum for our public schools and the public in general.

NOW, THEREFORE BE IT RESOLVED that the Western States Water Council adopt in principle, the reports prepared for the Western States Water Council by its consultant; the reports being entitled, "1st Report on Western Water and Education — June 13, 1975," "2nd Report on Western Water and Education — July 23, 1975," and, "Final Report on the Water Education Project — September 1, 1975."

NOW THEREFORE BE IT FURTHER RESOLVED that the Western States Water Council authorize the expenditure of \$1,000 for the retaining of additional consulting services; and that the Council further authorize Council staff participation in an effort to invite appropriate organizations and interest groups to contribute financial resources and to organize a separate, newly created, westwide water education committee consisting of not more than eleven members; three of which shall serve by designation of the Western States Water Council and three to represent the education segment of our society.

BE IT FURTHER RESOLVED that the Western States Water Council pledges that upon commitment of time and money to the creation of this organization by appropriate western organizations and interest groups, the Western States Water Council will contribute an additional \$2,000 to a budget of approximately \$15,000 that would be necessary for the organization to hire a project director, formally create a non-profit public information corporation, and establish a steering or advisory committee. The advisory committee would recommend to the Board of Directors the goals and objectives of the water project and would determine the information materials needed to accomplish the established goals. They would also determine the specific project title.

BE IT FURTHER RESOLVED that the Western States Water Council recognizes that beyond this organizational state there will be a need for significant financial support to create the appropriate information, disseminate the information to the education curriculum developers and implement the program described in the reports. At this time, the Western States Water Council makes no pledge of additional financial support and urges the newly created organization and its directors to explore all possible and appropriate means of financing a program that could be fully implemented.

Resolution 55.(1-76)

**AMENDMENTS TO THE PRINCIPLES
of the
WESTERN STATES WATER COUNCIL
Adopted January 16, 1976
San Diego, California**

Conservation Ethic — To be embodied into the Principles of the WSWC as follows:

1.1.3 Water resources of the region should be put to beneficial use to the fullest practicable extent in an efficient manner in accord with the needs and types of use in the particular area and wasteful and inefficient practices or those that unnecessarily degrade water quality should be eliminated.

1.1.3.a New uses of western water resources should make the most practical and efficient use of water resources and should minimize any necessary reductions in the quality of western water resources.

1.1.3.c Water resource developments should be implemented when they are well planned, endorsed by local and state governments

and provide for maximum social and economic benefits from the use of western water resources and integrate maximum use concepts with conservation, environmental enhancement and the preservation of natural resources.

1.1.3.d The states should be the lead governmental body in the administration of water rights and in the preparation of statewide water plans so that wise use and best conservation practices can be assured.

1.3.2 In making determination of possible surplus water, all water-related needs of the States and areas of origin bearing on environmental protection, economic prosperity and social well being shall be recognized.

1.5 The public should be educated concerning the various and many uses of water and the wise and prudent management thereof. Sound water resource and related land management concepts and the needs and issues confronting the region and the nation should be disseminated. All means and possibilities of financing, development of, and implementing an education program should be explored.

Resolution 56.(7-76)

POSITION STATEMENT of the WESTERN STATES WATER COUNCIL Concerning

AMENDMENTS TO THE WATER RESOURCES PLANNING ACT

**As Proposed by
Senate Bill 3142
Kalispell, Montana
July 9, 1976**

The western states have been leaders in water resource planning efforts. Over the past eleven years, administrators from all of the eleven western states have been actively involved in various aspects of the administration and implementation of P.L. 89-80. The nation's water programs are sometimes duplicative, conflicting and are often basically uncoordinated. State-federal relationships need to be better defined and improved. Therefore, the responsibilities of the U.S. Water Resources Council in these areas are important and significant to the eleven western states.

We believe that in the last eleven years, since the creation of the U.S. Water Resources Council by the Water Resources Planning Act, the Council has had limited effectiveness and the Council has fallen short of its goals of substantially improving state-federal relationships.

Although we do not feel that the Council should serve as an operating agency involved in setting priorities and establishing federal water policies, it can and should serve, in a limited way, as a coordinator of technical procedures and as a quasi-official advisory body on policy and planning matters.

We believe that it is wise for the Senate to now review the Water Resources Planning Act and consider potential changes that would improve the effectiveness of the Water Resources Council. For this reason, the Western States Water Council commends the Senate sponsors for taking the initial step of introducing Senate Bill 3142.

For more than a year, the Western States Water Council has been involved in discussions and analyses of P.L. 89-80, and the Council has, on two separate occasions, taken formal positions concerning potential amendments to the Act. On October 16, 1975, in Las Vegas, Nevada, a formal position was presented to the Subcommittee on Energy Research and Water Resources of the U.S. Senate. In that testimony, the Council made general recommendations concerning (1) mission of the council; (2) membership of the Council; (3) chairman of the Council; (4) goals of Title III of the Act; (5) term of Title III of the Act; and (6) level of funding for Title III of the Act.

We recognize that many of the provisions found within Senate bill 3142 are responsive to the general testimony given by the Western States Water Council, by individual western states, and by other states throughout the nation. We appreciate the interest and the responsiveness of the Senators involved in the preparation of S. 3142. Now we feel it appropriate that the Western States Water Council address in more detail some of these provisions as well as additional subject areas in the bill which we have not yet addressed.

We have organized our comments and recommendations under ten separate headings. They are as follows:

(1) Chairman, (2) Studies and Reports, (3) Federal Budget Review, (4) New River Basin Commission, (5) Non-Federal Advisory Committee, (6) Research, (7) River Basin Commission Activities, (8) Title III Funding, and (9) Time Period for Title III Funding.

(1) Chairman — Comment: The position of the Western States Water Council, as presented to a Subcommittee of the U.S. Senate on October 16, recommended that the same individual serve as chairman and executive officer of the Council, that he be appointed by the President and serve on a full time basis; and that he not be employed or affiliated with any member agency of the U.S. Water Resources Council.

We find that the provisions of Section 101 of S. 3142 relating to the appointment and qualifications of the Chairman of the United States Water Resources Council are in harmony with this position.

Recommendation: It is recommended that the provisions of Section 101 of S. 3142 that deal with the appointment and qualifications of the Chairman of the U.S. Water Resources Council be enacted into law.

(2) **Studies and Reports** — Comment: The Western States Water Council took the following position when it addressed the Subcommittee of the U.S. Senate on October 16: "We suggest that the Congress consider limiting or abolishing the role of the Water Resources Council staff in the area of functional planning. Planning efforts by the Water Resources Council staff are viewed as self perpetuating and duplicative of planning by other independent agencies of federal government. Many agencies have significant ongoing water resource planning programs and large well staffed organizations. We doubt that significant contributions to water resource utilization, development and conservation can be accomplished by a separate and independent planning program within the staff of the Water Resources Council."

The Act, if amended by S. 3142, would authorize the staff of the Water Resources Council to continue to perform water resource planning efforts. It is our observation that the first and only National Assessment has had limited usefulness. The second National Assessment, at a much higher cost than the first has been underway for several years. From our vantage point it will produce documents requiring a significant amount of state review and input, and yet, the completed document will have little value to the states and will receive little serious consideration from Congress and those making ultimate water resource decisions. We question the value of the second assessment and believe it should be eliminated.

On the other hand we believe that a very brief and concise annual report concerning water resources programs might be helpful to the Congress. The language in Section 103 of S. 3142 requiring an annual report would appear to permit interpretation as a requirement to prepare another massive federal report. The Council would oppose such a requirement and asks that the language of Section 103 be amended to preclude such an event.

We favor the concept proposed under Section 102 (c) of the bill which would add a new Subsection 102 (k) to 89-80 requiring that the Council coordinate its planning standards, criteria and procedures with other interested federal and state agencies. It is our belief that coordi-

nation of those planning elements should be accomplished between the federal and state agencies with the Water Resources Council serving as the coordinator. However, the WRC should not be involved in functional planning and thus itself be in need of coordination.

S. 3142 would add Subsection 102 (i) instructing the Water Resources Council to help in the preparation of applications for federal assistance for water resource planning to the extent possible. We find this paragraph confusing. Furthermore, we believe that state and local governments are able to derive the most effective assistance in preparation of applications from the agency in which the planning assistance program is administered.

Recommendation: It is recommended that S. 3142 be amended so that it would eliminate Section 102 (a) and much of Section 102 (b) of 89-80 so that the remaining portion of 102 (b) would read as follows: "The Council shall appraise the adequacy of existing and proposed policies and programs to meet requirements; and it shall make recommendations to the President with respect to Federal Policies and Programs."

We further recommend that any questions remaining as to whether or not the U.S. Water Resources Council should be engaged in activities such as the National Assessment be resolved in the legislation or in the accompanying legislative history by clearly indicating that these types of activities are not the responsibility of the U.S. Water Resources Council.

It is also recommended that in the new proposed Subsection 102 (k) the sixth, seventh, eighth, ninth and tenth words be stricken so that the paragraph would read, ". . . coordinate planning processes and activities of the federal and state agencies . . ." (continue as written).

We recommend deletion of the proposed new Subsection 102 (l).

We recommend that Section 106 be amended to include the requirement that the reports submitted to Congress annually by the President be brief and concise and that they speak to the effectiveness of water resource planning criteria and procedures. It is further recommended that the new section 106(4) read as follows: "Such additional views and comments as may be submitted by the states and their representatives, as established by Section 107 of this Act; and . . ."

(3) **Federal Budget Review** — Comment: The Western States Water Council believes that Water Resources Council activity in the review of budgets and in making recommendations to the President relative thereto would be duplicative of efforts of the Office of Manage-

ment and Budget. We find no reason to believe that the activities of the Office of Management and Budget would be lessened in any way and that the added layer of review and prioritization would be anything but disruptive.

Recommendation: It is recommended that the proposed new Subsection 102 (i) be deleted from section 102 (c) of Senate bill S. 3142.

(4) **New River Basins Commissions** — Comment: The Western States Water Council believes that it is the prerogative of the states to decide whether or not the vehicle of River Basins Commissions should be used to coordinate planning efforts. The powers of the Council to encourage formation of river basins commissions should not infringe upon this prerogative.

Recommendation: It is recommended that the second, third, fourth and fifth words be stricken from the proposed new Subsection 102 (j), and the word “where” be substituted so that the Subsection would read, “encourage, where practical; . . .” (continue sentence with existing language now proposed in that Subsection)

(5) **Non-Federal Advisory Committee** — Comment: The Western States Water Council, in the position presented to the Senate Subcommittee on October 16, noted that under the current organization and operating procedures the states did not have an opportunity to review comprehensively the activities of the U.S. Water Resources Council or to make meaningful input to its decision making process on the important issues that concern the states.

A proposed solution to this problem has been provided in S. 3142 through the creation of a non-federal advisory committee. It would appear that this type of committee would have as its purpose, coordination of federal and state planning efforts, therefore, it would seem appropriate that the committee be a state advisory committee rather than a non-federal advisory committee. The Western States Water Council further observes that although it would be impractical to have all states formally represented as official advisors sitting around the same table as the U.S. Water Resources Council, that each state should have an opportunity to effectively speak out on issues when the state deems it important that its views be heard by the voting members of the U.S. Water Resources Council.

The Western States Water Council has considered many proposals and we believe we are in a position to recommend a more effective vehicle than is proposed in S. 3142.

Recommendation: It is recommended that the new Section 107 be deleted and that a new Section 107 be added to read as follows:

Section 107 (a) The chairman of each of the five regional Governors' conferences of the National Governors' Conference (Midwestern, Southern, Midatlantic, New England and Western) shall designate one representative to represent the states of that region on an advisory board established by this Section: *Provided* that such representative, shall, as a result of training experience, be knowledgeable of water and related resource programs.

(b) The term of the office of such member so appointed to the advisory board shall run until the appointing Chairman Governor or a new Conference Chairman designates a new representative.

(c) The advisory board shall elect a chairman of the Board who shall call meetings of the Board at least twice yearly.

(d) Each member of the advisory board shall be allowed to participate as an active non-voting delegate in all Council meetings except those in which the Council will make policy or budget recommendations to the President. Advisory board members shall be treated, with the exception of the right to vote, with the consideration given to all Council members. They shall be invited to sit at the Council table during Council meetings and freely express their views or the separate views of the states from their areas. Members of the advisory board shall be notified in advance, in a timely fashion, of all items to be discussed or considered by the Council.

(e) Members of the state advisory board shall be reimbursed for their travel expenses to attend all Council meetings and meetings of the advisory board.

(f) Staff of the Water Resources Council is to assist members of the advisory board in communicating with representatives of the various states concerning the issues that have been discussed or are to be discussed by the Water Resources Council.

(g) Notwithstanding any of the above, the Governor of each state is authorized to designate a representative entitled to attend any Council meeting as an observer, except those meetings in which the Council will make policy or budget recommendations to the President. A Governor's representative who wishes to be heard by the Council on a given issue shall be given an opportunity to express his states view before the Council. Governors' representatives shall not be entitled to payment under this Act for travel and such other related costs incurred by such representatives incident to their attendance at the council meeting.

(h) The advisory board shall —

(1) advise the Council with respect to the activities and programs conducted by the Council and the coordination of such activities and programs with the activities and programs of federal, state, and local governments;

(2) make such recommendations as it deems appropriate regarding the implementation and coordination of planning procedures, studies and other activities and programs which the Council and its representative agencies should undertake or support; and

(3) cause to be published in the report established by Section 106 of this Act, such views and recommendations as the advisory board may deem appropriate relating to the functions set forth by this section.

(6) **Research** — Comment: The Western States Water Council, while preparing its position delivered to the Subcommittee of the U. S. Senate on October 16, did not realize that there was under consideration the possibility of including the activities of the Office of Water Resources Research, now currently in the Department of Interior, in the responsibilities of the U.S. Water Resources Council. Section 105 of the Senate bill S. 3142 would accomplish this transfer. After considering this option, the Western States Water Council believes that the staff of the U.S. Water Resources Council should be kept small and that its entire direction should be that of serving as a coordinator of water planning criteria and procedures for the various member federal agencies and as a coordinator between state planning efforts and federal planning efforts. These goals and objectives would not be facilitated by the addition of research to the responsibilities of the U.S. Water Resources Council. To the contrary, it seems possible that the addition of a much larger number of staff personnel responsible for research efforts could divert the Council from the aforesaid general objectives. Therefore, the Western States Water Council sees some disadvantage and no advantage to the proposed transfer of this research organization.

Recommendation: It is recommended that Section 105 be deleted from the Senate bill S. 3142 and that further, the eighth word "research" be deleted from the new Subsection 102 (i) proposed by Section 102 (c) of the Bill.

(7) **River Basin Commission Activities** — Comments: Section 202 (b) of S. 3142 which would add a new Subsection 204 (b) to 89-80 would allow for a broad interpretation of the areas of responsibility of River Basin Commissions, so that they might perform their functions when other water-associated natural resources are at issue.

Recommendation: The Western States Water Council endorses the language of the proposed new Subsection 204 (b) and urges the enactment of this language into law.

(8) **Title III Funding** — Comment: The Western States Water Council has urged the Congress in previous testimony to increase the current level of annual appropriation to \$10 million. S. 3142 accomplished approximately this level of funding by authorizing an annual appropriation of up to \$200,000 to each state. The Western States appreciate the responsiveness to the Council' previous position by the language currently found in S. 3142. However, some additional language appears appropriate to clarify the full intent of the legislation.

Recommendation: The Western States Water Council urges the adoption of the new language proposed for Section 301 (a) of 89-80. It is recommended, however, that additional language be inserted that would clarify any questions that might exist as to whether or not each state would receive annually an equal level of funding. We support equal funding to all states and believe that this is the intent of the language.

We also recommend that additional language be included in the Act that would clearly identify the fact that states could receive more than \$200,000 per year at times when all of the offered funds were not accepted by all of the states; this language should identify how the uncommitted funds are to be allocated among the states expressing a desire for additional funding during the fiscal year in question.

We note that there is some language proposed for Section 301 (a) that relates to the purpose of which Title III funding is to be used. The word "plan" is also used in the new language proposed for Section 303 (1) relating to state program qualifications. In reality, water resource planning is a dynamic and ongoing effort that must be responsive to changing demands and new policies. We therefore, recommend that the 45th word in the language of the proposed Section 301 (e) "plan" be changed to the word "planning." We also recommend that the ninth word of the new language proposed for Section 303 (1) be likewise changed from "plan" to "planning."

(9) **Duration of Title III Funding** — Comment: S. 3142 provides that the level of funding established under Title III continue only for a five year period. It is difficult to understand the rationale that would place a termination upon the funding to the states under the Water Resources Planning Act while other sections of the Act bear no similar limitation. The Western States Water Council, in its testimony of

October 16, pointed out that the Water Resources Planning Act identifies the appropriation of Title III funds as being for the purpose of "financial assistance to the states in order to increase state participation in such planning." It would seem logical that if planning is to continue beyond the five year period in the water resources area, and if the Water Resources Planning Act and the U.S. Water Resources Council are to function, then the states should continue to participate. Therefore, the rationale for the termination of the appropriation is not apparent.

On the other hand, it does seem appropriate that Title III and all aspects of the Water Resources Planning Act be reviewed after some period of time to determine if the program should continue, if the level of funding is appropriate, and if congressional modification would be appropriate to help improve the effectiveness of the coordination effort.

Recommendation: It is recommended that the provision terminating Title III funding at the end of a five year period as provided for in the Act be deleted and that a requirement be included in the Act that would make it mandatory that the U.S. Water Resources Council and the State Advisory Board submit a report in five years recommending total funding levels for water resource planning, including, but not limited to, Title III and incorporating conclusions as to the effectiveness of the program as authorized by the Act.

SUMMARY

Many members of the Western States Water Council have expressed disappointment with the accomplishments of the Water Resources Council in its eleven years of existence. In our testimony of October 16, we attempted to be responsive to specific questions that were forwarded to us by Senator Church. Our comments then, and our comments now, are intended to be constructive, to improve the effectiveness of the Water Resources Council to better define its areas of responsibility and to improve state-federal cooperation. We did not, on October 16, address the question of whether or not the U.S. Water Resources Council should continue to exist. In fact, we believe that it would be premature at this time to abolish the Council. The need for cooperation and coordination in water resource planning is of sufficient magnitude to justify the investment of time and effort.

The aforesaid recommendations are the result of lengthy deliberations by the Western States Water Council. We hope you will find them, as they are intended, a sincere effort to improve the text of S. 3142 in a manner that will enhance the functioning of the Water Resources Council and water resources planning in general.

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Concerning
A Policy of Indemnification from Liability
of Council Employees and Members
Arising in the Course and Within the Scope
of their Duties on Behalf of the Council
July 9, 1976

WHEREAS, Council members and staff run some foreseeable risk of exposure to liability in connection with Council activities; and

WHEREAS, many Council members, as well as the staff, have no protection against such risk; and

WHEREAS, however, the cost of available public official liability insurance is exorbitant.

NOW THEREFORE, BE IT RESOLVED, that the Western States Water Council adopt the following policy of indemnification of Council members and alternate members (hereinafter collectively referred to as Council members) and employees;

I. Indemnification

So long as this policy of indemnification hereinafter called "the policy" is in effect and subject to all of the terms, conditions, and limitations of the policy, the Western States Water Council (the Council) agrees as follows:

(1) If a tort claim is first brought while the policy is in effect against any Council member or employee whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty, the Council shall pay on behalf of the Council member or employee all losses which said Council member or employee shall become legally obligated to pay as a result of such claim.

(2) Notwithstanding subsection (1) of this section, the Council shall not be liable to make any payment in connection with any claim made for willful or wanton neglect of duty, libel, slander, defamation of character, invasion of privacy, or assault or battery.

(3) If any civil action, suit or proceeding is brought against any Council member or employee, which on its face falls within the provi-

sions of subsection (1) of this section, or which the Council member or employee asserts to be based in fact upon an alleged act or omission in the performance of duty, falling within the provisions of subsection (1) of this section, he shall give written notice to the Council of such action, suit or proceeding as soon as practicable. The Council shall thereupon engage counsel to appear and defend the Council member or employee, unless after investigation, it is determined that the claim or demand does not arise out of an alleged act or omission occurring in the performance of duty, or that the act or omission complained of is expected from the application of the policy under subsection (2) above.

(4) Any Council member or employee, against whom a claim within the scope of this section is made, shall cooperate fully with the Council and legal counsel in the defense of such claim. If the legal counsel determines and certifies to the Council that such Council member or employee has not so cooperated or has otherwise acted in prejudice to the defense of the claim, the Council may at any time reject the defense of the claim.

(5) If the Council rejects defense of a claim under subsection (1) of this section, or if it is established by the judgement ultimately rendered on a claim that the act or omission complained of was not in the performance of duty or was one expected from the application of the policy under subsection (2) above, no Council funds shall be paid in settlement of said claim or in payment of any judgement against such Council member or employee. Such action by the Council shall not prejudice the right of the Council member or employee to assert and establish in appropriate proceedings that the claim or demand in fact arose out of an alleged act or omission occurring in the performance of duty, or that the act or omission complained of was not excepted from the application of the policy under subsection (2) of this section, in which case he shall be entitled to indemnification by the Council pursuant to the provisions of the policy.

(6) If the Council member or employee has been defended by legal counsel engaged by the Council and it is established by the judgement ultimately rendered on the claim that the act or omission complained of was not in the performance of duty or was excepted from the application of the policy by subsection (2) above, said Council member or employee shall be responsible for reimbursing the Council for its costs, including a reasonable attorney fee.

II. Settlement of Claims by Council

The Council may compromise, adjust and settle court claims against its Council members or employees and may, subject to the

procedural requirements imposed by the Council Rules of Organization, appropriate money for the payment of amounts agreed upon provided such amounts shall not exceed the limits of the Council's obligation as described below.

III. Limits of Council's Obligation

(1) "Losses" for which the Council shall be obligated to pay under the policy shall include damages, judgements, settlements and costs, cost of investigation and defense of legal actions, claims or proceedings and appeals therefrom.

(2) Notwithstanding the foregoing provision, the Council shall be obligated to indemnify Council and employees for losses resulting from claims within the scope of the policy only to the extent of the Council's then unappropriated surplus revenues. The Council shall not be obligated to pay the claim or to defend any suit after its unappropriated surplus revenues are exhausted.

IV. Exclusions

The Council shall not make any payment in connection with any claim made against Council members or employees:

(1) brought about or contributed to by fraud or dishonesty of the Council member or employee; however, notwithstanding the foregoing, the Council member or employee shall be protected under the terms of the policy as to any claims upon which suit may be brought against them by reason of any alleged fraud or dishonesty on the part of the Council member or employee, unless a judgement or other final adjudication thereof adverse to such Council member or employee shall establish that acts of active or deliberate dishonesty or fraud committed by such Council member or employee were material to the cause of action so adjudicated;

(2) which is insured by another valid private company insurance policy, including any insurance policies of the Council.

V. General Conditions

(1) The policy may be revoked at any time by the Council pursuant to its Rules of Organization.

(a) The policy shall also extend to the estates, heirs, legal representatives or assigns of deceased persons who were Council members or employees at the time the act was committed upon which a claim is based.

Resolution 58.(7-76)

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Regarding
TAX EXEMPT BONDS
July 9, 1976

WHEREAS, water for thermal power cooling and water for hydro-electric power continues to be significant in the western states and the sale of the power generated has resulted in significant savings in public funds used to construct multipurpose water projects; and

WHEREAS, the Western States Water Council recognizes the necessity of tax exempt status for bonds issued by public agencies in the western states to finance construction of multipurpose water projects by such agencies and the need to construct such projects in the future to partially ease the strain on our other sources of nonrenewable energy; and

WHEREAS, regulations issued by the Treasury Department have placed serious limitations on the ability of public agencies to develop multipurpose water projects where over 25% of the water or power is used by or sold to non-exempt persons; and

WHEREAS, the House Ways and Means Committee has before it two bills (H.R. 11492 and H.R. 12918) that address this issue.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council urges changes be made in federal tax laws that would make clear the tax exempt status of bonds issued by agencies constructing multipurpose water projects by the removal of present limitations imposed by federal tax regulations which deter the proper development and protection of water resources.

Resolution 59.(7-76)

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Regarding
SENATE BILL 3298
July 9, 1976

WHEREAS, on April 13 Senator Kennedy introduced the Central Arizona Indian Tribal Water Rights Settlement Act of 1976 as a purported settlement of Indian water rights claims; and

WHEREAS, the Act under the guise of settling Winters Doctrine claims would authorize the Secretary to acquire the surface water rights to approximately 1 million acre feet per year, all of which water is currently in use supporting Arizona's economy, and is equivalent to all dependable supplies of the three central Arizona counties in which the five reservations are located, and would vest in the Secretary, rather than local and State interest, the authority to decide what sectors of the State's economy are to be dried up to benefit increased irrigation on the reservations; and

WHEREAS, the Act would vest in the Secretary of the Interior eminent domain authority to acquire such rights and to separate and transfer surface water rights from the lands to which it now attaches to the reservation; and

WHEREAS, the provision that would authorize the Secretary to transfer to lands within the Indian reservations any federal water rights appurtenant to public lands or to any land within a federal reservation under his jurisdiction which are surplus to the needs of such lands would enlarge and aggravate the federal "Reservation Doctrine" already under serious challenge by the states; and

WHEREAS, the Act would vest in the Secretary the potentially damaging authority to divert power and energy generated at existing reclamation project facilities away from existing customers in order to provide power to the reservations at no more than cost; and

WHEREAS, the definition of "federal water rights" creates a water right heretofore nonexistent, and which conflicts with "State water rights" as defined in the act; and

WHEREAS, the Act would fail to settle all claims of reservations but would leave open the claims of one reservation to the surface waters of the Salt River and of all reservations to groundwaters and to surface waters for purposes other than farming; and

WHEREAS, the Act would establish a precedent for the "settlement" of reservations claims in other states as set forth by Senator Kennedy in introducing S. 3298 "with this bill as a beginning, it is my hope that Congress can develop legislative models to settle and resolve Indian water rights in other areas of the West . . ."

NOW THEREFORE, BE IT RESOLVED THAT the Western States Water Council go on record as strongly opposing S. 3298 as damaging to the economic and social fabric of our nation and one which will not solve the problems it purports to solve; and

BE IT FURTHER RESOLVED THAT copies of this resolution be forwarded to all senators and congressmen representing the eleven western states with the request that they actively oppose S. 3298.

APPENDIX A

RULES OF ORGANIZATION

APPENDIX A

RULES OF ORGANIZATION

Article I—Name

The name of this organization shall be "THE WESTERN STATES WATER COUNCIL."

Article II—Purpose

The purpose of the Western States Water Council shall be to accomplish effective cooperation among western states in planning for programs leading to integrated development by state, federal, and other agencies of their water resources.

Article III—Principles

Except as otherwise provided by existing compacts, the planning of western water resources development on a regional basis will be predicated upon the following principles for protection of states of origin:

- (1) All water-related needs of the states of origin, including but not limited to irrigation, municipal and industrial water, flood control, power, navigation, recreation, water quality control, and fish and wildlife preservation and enhancement shall be considered in formulating the plan.
- (2) The rights of states to water derived from the interbasin transfers shall be subordinate to needs within the states of origin.
- (3) The cost of water development to the states of origin shall not be greater, but may be less, than would have been the case had there never been an export from those states under any such plan.

Article IV—Functions

The functions of the Western States Water Council shall be to:

- (1) Prepare criteria in the formulation of plans for regional development of water resources to protect and further state and local interests.
- (2) Undertake continuing review of all large-scale interstate and interbasin plans and projects for development, control or utilization of water resources in the Western States, and submit recommendations to the Governors regarding the compatibility of such projects and plans with an orderly and optimum development of water resources in the Western States.
- (3) Investigate and review water related matters of interest to the Western States.

Article V—Membership

- (1) The membership of the Council shall consist of not more than three representatives of each of the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming appointed by and serving at the pleasure of the respective Governors. The states of Alaska and Hawaii shall be added to membership if their respective Governors so request.
- (2) Member states may name alternate representatives for any meeting.
- (3) Any state may withdraw from membership upon written notice by its Governor.

Article VI—Ex-Officio Members

The Governors of the member states shall be ex-officio members and shall be in addition to the regularly appointed members from each state.

Article VII—Officers

The officers of the Council shall be the Chairman, Vice Chairman, and Secretary-Treasurer. They shall be selected in the manner provided in Article VIII.

Article VIII—Selection of Officers

The Chairman and Vice Chairman, who shall be from different states, shall be elected from the Council by a majority vote at a regular meeting to be held in July of each year. The Secretary-Treasurer shall be appointed by and serve at the pleasure of the Chairman and need not be a member of the Council. The Chairman and Vice Chairman shall serve one-year terms but may not be elected to serve more than two terms consecutively in any one office.

Article IX—Executive Committee

Representatives of each state shall designate one of their members to serve on an Executive Committee which shall have such authority as may be conferred on it by these Rules of Organization, or by action of the Council. Any Executive Committee member may designate an alternate to serve in his absence. All standing, working, special or other committees of the Council may report to the Council through the Executive Committee.

Article X—Voting

Each state represented at a meeting of the Council shall have one vote. A quorum shall consist of a majority of the member states. No matter may be brought before the Council for a vote unless advance notice of such matter has been mailed to each member of the

Council at least 30 days prior to the meeting at which such matter is to be considered; provided, that matters may be added to the agenda at any meeting by unanimous consent of those states represented at the meeting. In any matter put before the Council for a vote, other than election of officers, any member state may upon request obtain one automatic delay in the voting until the next meeting of the Council. Further delays in voting on such matters may be obtained only by majority vote. No recommendation may be issued or external position taken by the Council except by an affirmative vote of at least two-thirds of all member states; provided that on matters concerning out-of-basin transfers no recommendation may be issued or external position taken by the Council except by a unanimous vote of all member states. On all internal matters, however, action may be taken by a majority vote of all member states.

Article XI—Conduct of Meetings

Except as otherwise provided herein, meetings shall be conducted under Roberts Rules of Order, revised. A ruling by the Chair to the effect that the matter under consideration does not concern an out-of-basin transfer as an appealable ruling, and in the event an appeal is made, such ruling to be effective, must be sustained by an affirmative vote of at least 2/3 of the member states.

Article XII—Meetings

The Council shall have one regular meeting each year in the month of July at a time and place to be decided by the Chairman. Special meetings may be called by the Chairman or by a majority of the member states, upon 30 days written notice.

Article XIII—Limitations

The work of the Council shall in no way defer or delay authorization or construction of any projects now before

Congress for either authorization or appropriation.

Article XIV—Amendment

These articles may be amended at

any meeting of the Council by unanimous vote of the member states represented at the meeting. The substance of the proposed amendment shall be included in the call of such meetings.

PRINCIPLES—STANDARDS—GUIDELINES

PREAMBLE

The Constitution of the United States and the Constitutions of the individual States shall be adhered to in Western regional water planning and development.

This statement of principle reaffirms, expands and clarifies principles set forth in Article III, "Rules of Organization" of the Western States Water Council.

1.0 PRINCIPLES

1.1 Comprehensive regional planning, transcending political boundaries, is a major consideration in the maximum proper utilization of the water and related resources of the West. Development of those resources to meet all reasonable needs as they may arise is essential to the continuing prosperity of the region and each of its economically interdependent parts.

1.1.1 The planning process should include or supplement rather than supersede existing water resource developments; it should complement and strengthen local and state planning activities rather than displace them; it should result from cooperative effort of all agencies concerned.

1.1.2 The planning program should be aimed to achieve a reasonably equitable balance among all existing and potential uses of water, insofar as the supply available or to be developed will permit, consistent with established rights.

1.1.3 Water resources of the region should be put to beneficial use to the

fullest practicable extent in an efficient manner in accord with the needs and types of use in the particular area and wasteful and inefficient practices or those that unnecessarily degrade water quality should be eliminated.

1.1.4 New uses of western water resources should make the most practical and efficient use of water resources and should minimize any necessary reductions in the quality of western water resources.

1.1.5 Water resource developments should be implemented when they are well planned, endorsed by local and state governments and provide for maximum social and economic benefits from the use of western water resources and integrate maximum use concepts with conservation, environmental enhancement and the preservation of natural resources.

1.1.6 The States should be the lead governmental body in the administration of water rights and in the preparation of statewide water plans so that wise use and best conservation practices can be assured.

1.1.7 It is imperative that all States, as expeditiously as possible, make thorough studies of their water resources and predicted water needs in accordance with Guidelines and Standards similar to those adopted by the Council.

1.1.8 Long-range water plans should be expeditiously developed which are flexible enough to permit modifications to meet changing long-term needs and advances in technology, yet specific enough to provide solutions for immediate water supply problems.

1.1.9 Water exportation studies shall include a thorough examination of efficiency of water use and cost-price relationships and a comprehensive economic evaluation that considers all

costs and benefits accruing to the area of origin and costs and benefits accruing to the area of import. The economic analysis must include similar studies for alternative sources of supply. Aesthetic values shall be considered in over-all project evaluation.

1.1.10 Close cooperation and free interchange of ideas and reporting of data on a uniform basis among all affected local, State and Federal interests, shall be sought.

1.1.11 Water resource planning shall consider water quality, as well as quantity.

1.2 Regional water planning should be designed to avoid interference with existing rights to the use of water. Any taking of land or water rights shall be governed by the law of eminent domain. Interstate compact allocations shall be honored.

1.2.1 Any entity studying transfer of surplus water shall recognize the economic, social, legal, political and ethical implications of the transfer on both the exporting and importing areas. Such entity must plan so as to assure social and economic growth and development, by either:

- (a) The return or replacement of the water exported to the area of origin; or
- (b) Providing equivalent beneficial programs acceptable to the area.

1.2.2 The rights to water of regions; states or individuals must be recognized and guaranteed through due process of law.

1.3 Except as otherwise provided by existing law, the planning of water resources development in the Western states shall be predicated upon the following principles for protection of and assistance to states of origin.

1.3.1 Inter-basin or inter-regional transfer of water shall contemplate only the transfer from the area of origin of those quantities of water deemed to be surplus. The States shall endeavor to

agree upon determination or quantities of water that are surplus.

1.3.2 In making determination of possible surplus water, all water-related needs of the States and areas of origin bearing on environmental protection, economic prosperity and social well being shall be recognized.

1.3.3 All water requirements, present or future, for uses within the drainage area of any river basin, shall have priority and right in perpetuity to the use of the waters of that river basin, for all purposes, as against the uses of water delivered by means of such exportation works, unless otherwise provided by treaty, interstate agreement or compact.

1.3.4 The cost of water development to the States of origin shall not be greater, but may be less, than would have been the case had there never been an export from those States under any such plan.

1.3.5 In the study of interstate diversion, any interstate diversion project shall neither impede nor minimize the development of water resources in the state of origin, and shall result in substantive net advantage to such State over the advantage it could have obtained, by itself or otherwise, without such diversion project.

1.3.6 All plans for inter-basin diversion of water shall provide for such financial arrangements with the states of origin as may be necessary to comply with Sections 1.3.4 and 1.3.5 above.

1.3.7 The exportation of water shall not change an area of origin from a water-rich to a water-deficient economy and shall not adversely affect the competitive position of the area of origin.

1.3.8 State or area of origin priority shall be explicitly set forth in all contracts for the use of imported water. Should such priority ever be denied, through subsequent action of the Congress, or otherwise, areas of origin will be entitled to just compensation.

1.3.9 Federal statutes designed to protect areas and states of origin, in any regional interstate plan of origin in any regional interstate plan of water development, should include the consent by the United States for any such state of origin to sue in the Federal Courts, to compel Federal officials to comply with such statutes and for such other relief as deemed equitable.

1.4 This statement of principles shall not be considered as any support or advocacy for the diversion of water from one river basin to another.

1.5 The public should be educated concerning the various and many uses of water and the wise and prudent management thereof. Sound water resource and related land management concepts and the needs and issues confronting the region and the nation should be disseminated. All means and possibilities of financing, development of, and implementing an education program should be explored.

2.0 STANDARDS FOR GUIDANCE IN THE FORMULATION OF CONCEPTS AND PLANS FOR STAGED REGIONAL DEVELOPMENT OF WATER RESOURCES

2.1 A Western States water resource program shall be developed and maintained by the Western States Water Council through compilation and analysis of available state-wide plans and Federal inter-basin and interstate plans, to provide a broad and flexible pattern into which future definite projects may be integrated in an orderly fashion.

2.2 A basic objective of the program is to provide a framework within which projects may be developed to meet the requirements for water to the extent feasible as and where they arise.

2.3 A determination of the advantages and disadvantages of alternate methods of meeting water needs should be included in the Western States water resource program.

2.4 In order to provide the uniformity necessary to facilitate compilation and analysis of the various state-

wide water plans, it is recommended that such plans contain projects of usable water resources and an inventory of need for the years: 1980, 2000, 2020, 2040.

2.5 Each Member State should strive to complete, no later than June 30, 1977, a preliminary water plan, including estimates of water resources and estimates of current and long-range water needs.

3.0 GUIDELINES AND PROCEDURES FOR CORRELATION OF PLANS AND SCHEDULES AMONG WESTERN STATES

3.1 Interstate Exchange of Information and Data.

3.1.1 When a state publishes reports or takes any action which may affect the plans or objectives of other States, the affected States and the Western States Water Council staff should be furnished copies thereof. Request for basic data and supporting information should be initiated by the State needing the data or information.

3.1.2 The request for the exchange of basic data and supporting information should be coordinated through one state agency.

3.1.3 The name, official position, address and telephone number of the designated state office will be forwarded to the Western States Water Council staff. The staff will prepare a consolidated list of designated offices and distribute copies to all States through the State's member of the Executive Committee, Western States Water Council.

3.1.4 The type of reports and actions which should be sent to other States and the Western States Water Council staff includes, but is not limited to, copies of the following:

3.1.4.1 Summaries of current and long-range estimates of various types of water needs and usable water resources.

3.1.4.2 Planning schedules for developments of all large scale interstate and interbasin plans and projects.

3.1.4.3 State evaluation of programs such as weather modification, watershed management, groundwater recharge, desalination, and waste water reclamation.

3.1.4.4 Major legal and administrative decisions pertaining to water resources.

3.1.4.5 State or Federal legislation as proposed by any state materially affecting Western States water planning.

3.2 Correlation of Plans and Schedules.

3.2.1 A master list shall be prepared and maintained at the headquarters of the Western States Water Council of items furnished pursuant to Section 3.1 with copies to be furnished to member States at appropriate intervals.

