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1977 Annual Report

1977
ANNUAL REPORT
OF THE
WESTERN STATES
WATER COUNCIL

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1977
GOVERNOR MEMBERS



ARIZONA
Governor
Wesley Bolin



ARIZONA
Governor
Raul Castro



CALIFORNIA
Governor
Edmund G.
Brown, Jr.



COLORADO
Governor
Richard D. Lamm



IDAHO
Governor
John V. Evans



MONTANA
Governor
Thomas Judge



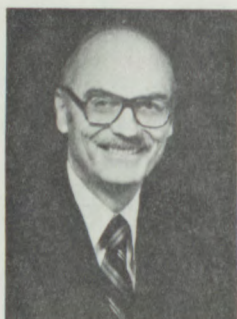
NEVADA
Governor
D. N. "Mike"
O'Callaghan



NEW MEXICO
Governor
Jerry Apodaca



OREGON
Governor
Robert Straub



UTAH
Governor
Scott Matheson



WASHINGTON
Governor
Dixy Lee Ray



WYOMING
Governor
Ed Herschler

WESTERN STATES WATER COUNCIL
220 South 2nd East, Suite 200
Salt Lake City, Utah 84111
(801) 521-2800
ANNUAL REPORT
1977

In 1964 the Western Governors' Conference resolved that a comprehensive study of water resources should be undertaken by the states which would give particular attention to the feasibility of inter-regional water utilization, alternative methods of meeting the needs of water deficient areas, now and in the future, and an equitable means of maintaining the security of the water rights of each State. They further resolved that there would be adopted an underlying philosophy for regional development that would assure areas and states of origin which export water to areas of deficiency, full legal and economic protection of the future development rights.

On June 13, 1965, the Western Governors' Conference authorized the establishment of the Western States Water Council in general conformity with the organized pattern of the rules of organization developed by the Western Governors' Conference's Western Water Resources Task Force. The stated purpose of the Council is to accomplish effective cooperation among the western states in planning for programs leading to integrated development by state, federal and other agencies of their water resources.

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.

1977

WESTERN STATES WATER COUNCIL

MEMBERSHIP

Chairmen

Chris L. Wheeler—Oregon
7-77

Wesley E. Steiner—Arizona
7-75 to 7-77

Vice-Chairmen

Don Paff—Nevada
7-77

Chris L. Wheeler—Oregon
7-75 to 7-77

Secretary-Treasurer

Daniel F. Lawrence—Utah
7-73

ARIZONA

*Governor Wesley Bolin
11-77

Governor Raul Castro
1-75 to 11-77

**Wesley E. Steiner

Tom Choules
Froilan Cota

CALIFORNIA

*Governor Edmund G. Brown, Jr.

**Ronald B. Robie
W. Don Maughan

Howard Way
4-72 to 1-77

COLORADO

*Governor Richard D. Lamm

**Harris D. Sherman

C. J. Kuiper
Raphael J. Moses

6-65 to 7-77

IDAHO

*Governor John V. Evans
1-77

Governor Cecil D. Andrus
1-71 to 1-77

**Herman J. McDevitt

George L. Yost
Ray Rigby

Steve Allred (Alt.)

Cy Young (Alt.)

A. Kenneth Dunn (Alt.)
5-77

R. Keith Higginson (Alt.)

2-73 to 5-77

Wayne T. Haas (Alt.)

3-73 to 5-77

MONTANA

*Governor Thomas Judge

**John F. Acord

Donal'd G. Willems

Henry Loble

Ted J. Doney (Alt.)

Orrin A. Ferris (Alt.)

NEVADA

*Governor D. N. "Mike" O'Callaghan

**Roland D. Westergard

Hal Smith

Donald L. Paff

Robert S. Leighton (Alt.)

C. Clifton Young (Alt.)

NEW MEXICO

*Governor Jerry Apodaca

**S. E. Reynolds

George Hannett

Odis L. Echols

David P. Hale (Alt.)

OREGON

*Governor Robert Straub

**Chris L. Wheeler

UTAH

*Governor Scott Matheson
1-77

Governor Calvin L. Rampton
6-65 to 1-77

**Thorpe A. Waddingham

Harry D. Pugsley

Daniel F. Lawrence

Dallin Jensen (Alt.)

WASHINGTON

*Governor Dixy Lee Ray
1-77

Governor Daniel J. Evans
6-65 to 1-77

**Wilbur G. Hallauer

4-77

Charles B. Roe, Jr.

Jason King

4-77

John Spencer (Alt.)

10-77

John A. Biggs

1-73 to 4-77

Fred D. Hahn

4-69 to 4-77

Norman L. Krey

10-69 to 4-77

WYOMING

*Governor Ed Herschler

**George Christopolos

Willard C. Rhoads

Myron Goodson

TEXAS OBSERVER

Charles Nemir

*Governor Member

**Executive Committee Member

COUNCIL ACTIVITIES

The forty-fifth quarterly meeting of the Western States Water Council was held at Portland, Oregon on January 28, 1977. The Council members unanimously passed two resolutions to amend P.L. 92-500. These resolutions appear on pages 7 and 8. A resolution concerning the protection of water rights under the Federal Water Pollution Control Act was passed by Council vote and appears on page 10. A resolution concerning the extension of the time limit for preparation of 208 plans under the Federal Water Pollution Control Act was also approved by Council members. A complete resolution appears on page 11. The Council determined that it would urge western congressmen and western senators not to support the introduction of legislation concerning dam safety, but if proposed legislation drafted by the Department of Army were to be introduced, modifications to that legislation would be necessary before the western states could consider supporting the proposal. This position statement appears on page 11. The Council approved an action suggested by the Water Resources Committee that the water for energy report originally published in 1974 be updated with conservation and energy development incorporated into the report. Larry Wilkinson and Tucson Myers were approved as consultants for this effort. A proposed contract with the Council of State Governments to make a study of water problems in the 50 states, was reconsidered and declined unanimously as an inappropriate use of Council funds and staff effort for the 50 state effort.

The subject of problems in the West was discussed at the meeting. Secretary of Interior Cecil Andrus had requested through an aide that the Western States Water Council send him a summation of presentations by the Western States Water Council states as to the present drought problems each state was facing. States were requested to inform the Western States Water Council staff of their actions to resolve the drought problems in their respective states. The Council staff took the responsibility to issue a periodic drought report to Council members, and interested people, to keep them aware of the situation west-wide. Through the periodic drought reports, states could learn of the actions of their neighboring states and what federal initiatives were being undertaken.

The forty-sixth quarterly meeting was held in Salt Lake City, Utah, on April 22nd. The subject of the drought was again important. The organization of the Western Regional Drought Action Task Force chaired by Governor Lamm of Colorado was reported. Circulation of a drought newsletter, prepared by the Western States Water Council staff had reached a distribution of 350. Extra staff personnel were hired to help coordinate the work load brought about by the drought

in the West and the ensuing problems. Twenty-one states became involved in the Western Regional Drought Action Task Force (WRDATF). A more detailed report of the drought situation and the actions taken appear in this report on page 22.

Western governors had been considering for many months, ways to coordinate the activities of multi-state organizations and had requested the Western States Water Council to report on water organizations. This report was accepted by the Council members at the quarterly meeting and distribution was made to the respective governors by the May 1 deadline. A more detailed report on multi-state organizations appear on page 36.

President Carter recommended to Congress in February that funds totaling \$289 million for 19 water projects be cut from the federal budget for fiscal 1978. The President also ordered a complete review and evaluation of 320 current water resource projects by an April 15 deadline. Projects which were affected by this announcement in the Western States Water Council member states were: Central Arizona Project—Arizona and New Mexico, Auburn-Folsom South, Central Valley Project—California, Savery Pot-Hook Project—Colorado and Wyoming, Dolores and Fruitland-Mesa Projects—Colorado, and on the Central Utah Project, Bonneville Unit—Utah. Hearings were held in the West, and Senators and Congressmen from 15 states went to the White House to protest the Administration's threatened suspension of the 19 water projects. During the last week of March, the House Budget Committee voted to restore to the tentative budget most of the water project funds that had been deleted earlier by the same committee. In late April, President Carter recommended deletion of funds for some projects, modification for others and continued funding, without modification, for the remainder. No funding was recommended for Fruitland Mesa and Savery Pot-Hook in Colorado and Applegate Lake in Oregon, which was added to the 'hit list' after the originally announced doomed nineteen. Partial funding was recommended for the Central Utah Project, Bonneville Unit in Utah and the Central Arizona Project in Arizona and New Mexico. The Dallas Creek and Dolores in Colorado and the Lyman Project in Wyoming were recommended for full funding. The Auburn-Folsom South, Central Valley Project in California and the Narrows Unit in Colorado remained under study for funding.

The Western States Water Council, with the exception of the State of Montana, approved the transmission of a draft letter to the Congressional delegation and the Administration on the funding of western water projects, a copy of which appears on page 12. Jack A. Barnett, Executive Director of the Western States Water Council, appeared at hearings and other meetings in this regard with the author-

ization of Council members. The Western States Water Council staff was instructed to contact as many Congressmen as possible, seeking their support of the funding of the water projects in the West that were scheduled to be dropped from funding support by the Administration.

In July, the Senate approved an appropriations bill that included funds necessary for the building of nine of the water projects on President Carter's 'hit list.' The House bill contained funding for eighteen projects opposed by President Carter. However, on July 20, House-Senate conferees agreed to kill the nine water projects and to go along with the President's request that no new projects be started in the coming fiscal year.

The Council members reaffirmed a previously adopted position of the Council opposing proposed legislation entitled, The Central Arizona Indian Tribal Water Rights Settlement Act of 1977. The bill, S. 905, sponsored by Senators Kennedy and Metcalf, was identical in content to S. 3298, which was presented in 1976. The resolution of the Council regarding S. 3298 in 1976 was changed only to read S. 905 and dated 1977. (See page 46 of the 1976 Annual Report.)

Items receiving considerable discussion at this meeting included dam safety legislation, the Department of Interior's Advisory Committees, Section 80 study, Title III funding, procedures for the transfer of water rights, the Circuit Court decision on the New Melones case, action against EPA by the Environmental Defense Fund concerning salinity in the Colorado River, Indian tribal water codes and P.L. 92-500, including Section 404.

The Council's forty-seventh quarterly meeting was held in Idaho Falls, Idaho, on July 22. Chairman Wesley E. Steiner of Arizona, Vice-Chairman Chris L. Wheeler of Oregon and Secretary-Treasurer, Daniel F. Lawrence of Utah completed their 2nd full year term as Council officers. Chris L. Wheeler was elected chairman of the Council and Donald L. Paff, Nevada, was elected vice-chairman. Daniel F. Lawrence was requested by the new chairman to remain in his capacity as secretary-treasurer.

The Auditor's report on FY 76-77 was unanimously accepted and appears on page 26.

The energy update report prepared for the Water Resources Committee by consultants entitled, "Water for Western Energy Development Update 1977," received Council support and authorization for printing and distribution.

Although no formal action was taken, comment and discussion took

place on the following: federal water policy review, dam safety legislation, PL. 92-500, particularly Section 404, Indian reserved water rights, the Central Arizona Water Rights Settlement Act, state-federal water rights, reorganization, and the funding of western water projects.

A proposed letter to Interior Secretary Cecil D. Andrus concerning proposed regulations to establish water codes on Indian reservations received a favorable vote from a majority of the Council. California and New Mexico voted nay and Colorado did not have a representative present. A copy of the proposed letter is printed on page 15.

The President on May 23 announced that there was to be a six month federal study that would result in major water policy reform. Actions relating to hearings on the Federal Water Policy study took high priority at the meeting as briefing papers and deadlines were discussed. Information was obtained from the states to assist in preparing a draft of a briefing paper for Western Governors on water policy reform. The Council adopted a position stating that the Council was unable to make a statement at the July 28-29 or August 1-2 hearings due to the very short time allowed by Federal announcements and options published in the July 15 Federal Register.

The forty-eighth quarterly meeting of the Western States Water Council was held October 14 in Salt Lake City, Utah. A draft position prepared by a special committee of Council members was used by Governor Matheson and other Governors as they prepared for the Governors' Conference in Alaska. A water resource resolution was passed at the Governors' Conference relating to the federal water policy study. That same resolution dealing with water was taken by Utah's Governor Matheson to the Interstate Conference on Water Problems Convention and it was adopted by the Conference, essentially in the same form.

At the Governors' Conference in Alaska, the organization of WESTPO and possible dissolution of the Western Governors' Conference met with mixed reaction. Five of the eleven Western States Water Council Governors decided against joining in WESTPO efforts and affirmed their desire to continue the Western Governors' Conference. Efforts of the Western States Water Council were praised at that same conference.

Wesley Bolin, new governor of Arizona, became an ex-officio member of the Western States Water Council when Governor Raul Castro was appointed as Ambassador to Argentina.

Dan Beard, Deputy Assistant Secretary for Land and Water, informed Council members of water policy progress within the Admini-

stration since the beginning of the year. Leo Eisel, Director of the U.S. Water Resources Council briefed the Council concerning the future of the U.S. WRC. A motion concerning a proposed letter to Secretary Andrus, urging that the Indian water rights not be excluded from the federal water policy review, passed Council vote unanimously. A copy of this resolution appears on page 22. A motion was also passed that urged the Secretary of the Interior, the Director of OMB and the Chairman of CEQ to authorize a meeting in Utah sometime in November to discuss the latest draft of the water policy review. The resolution appears on page 14.

The western drought continued to be of importance as ways to mitigate the effects of the drought were explored. Council members were brought up to date on the Federal government's efforts to reorganize the natural resource agencies of the Federal government, amendments to P.L. 92-500, instream flow issues, irrigation efficiency and the 100-acre limitation issue.

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Concerning
Proposed EPA General Permit Regulations
For
Agricultural Activities
January 28, 1977

WHEREAS, on July 5, 1973, the Environmental Protection Agency (EPA) published regulations for the issuance of National Pollutant Discharge Elimination System (NPDES) permits, which excluded discharges from some point source categories, including certain agricultural activities, from the requirement of applying for and obtaining a permit; and

WHEREAS, EPA's discretion to exclude these point sources from the NPDES permit program was successfully challenged in the Federal District Court for the District of Columbia, which ruled on July 10, 1975 that EPA must propose and promulgate regulations "extending the NPDES permit system to include all point sources" in the categories in question, including agriculture; and

WHEREAS, on July 12, 1976 EPA promulgated regulations for agricultural activities indicating that the NPDES permit program as currently administered was not appropriate to deal with the vast number of point sources in the agricultural category, and instead, indicated EPA's intention to propose a new program of general permits for agricultural point sources; and

WHEREAS, nationally uniform techniques for abating pollution from agricultural point sources are currently unavailable and the problems faced by owners and operators of agricultural point sources vary considerably throughout the country; and

WHEREAS, pollution reduction from agricultural point sources cannot be practicably achieved by applying end-of-pipe pollution control technology.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council endorse the general permit program approach as a means of providing maximum flexibility to EPA and the states in administering an appropriate permit program for agricultural activities, within the limits of the Federal District Court order of June 10, 1975.

BE IT FURTHER RESOLVED, that the Western States Water Council urges EPA in preparing a final draft of the general permit program regulations to include provisions for approval of state permit programs for agricultural activities where such programs progress toward meeting the water quality requirements and goals of the Federal Water Pollution Control Act, and specifically urges EPA to retain Section 124.86 (c) (2) of the October 19, 1976 draft of the general permit program regulations, which reads in part as follows:

“The Regional Administrator may approve any State permit program authorized pursuant to subparagraphs (b) (2) or (b) (3) of this subsection for point sources in either the separate storm sewer category or the agricultural activities category, or both, if in his discretion the Regional Administrator determines that the program provides for a planning or permitting procedure which progresses towards meeting water quality requirements and the goals of the Act. Such a planning or permitting program shall be submitted to the Regional Administrator within six months after the promulgation of these regulations. After this submission the Regional Administrator shall have sixty days to review the program and make written recommendations for improvement of the program as necessary. Any such written recommendations shall be incorporated in the State program unless the Regional Administrator and Director can agree to an alternative resolution of any conflicts.”

AMENDEMENTS TO P.L. 92-500
Proposed by
The
WESTERN STATES WATER COUNCIL
January 28, 1977

TITLE I — New Section 116 (Control of Pollutants from Irrigated Agric.)

“SEC. 116. The Administrator shall, in cooperation with the Secretary of Agriculture, Secretary of Interior, other federal agencies, and the states, prepare an assessment of the irrigated territory of the United States. That assessment shall include:

“(a) an indemnification and classification, by basin and subbasin, of pollution problems and their severity; and, if such identification and classification indicates a necessity therefor,

“(b) an identification of areas where irrigation agricultural practices, alone or in conjunction with natural conditions or other water uses may impact water quality through changes in salinity, sediment, nutrient or pesticide concentrations or through other deleterious effects; and, if such identification indicates a necessity therefor,

“(c) physical, hydrologic, economic and institutional criteria which can be used to develop guidelines to control discharges from irrigated agricultural lands. This assessment shall be completed by 1983. There is hereby authorized for appropriation a sum not to exceed \$50,000,000 which shall remain available until expended.

Notwithstanding the above, where similar studies and actions are already authorized by Congress under other legislation, such as the Colorado River Basin Salinity Control Act, said studies and actions shall continue under such authorization, and no funds shall be authorized under this section for duplicative assessments or studies. Provided further, that where adequate studies are underway under Sections 208, 209 and 303(e) of this Act which will achieve the objectives of this section, then no funds shall be expended under this section for duplicative studies.

TITLE IV—Amended Section 402(b) (Permits and Licenses) (Additions are boldface)

“(b) At any time after the promulgation of the guidelines required by subsection (h) (2) of Section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the **Statewide Water Quality Plan** and program it proposes to establish and administer under State law or under an interstate compact. In addition, such state shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to **implement the Statewide Water Quality Plan** and to carry out the described program. **The Statewide Water Quality Plan and program may, based upon**

the results of the assessment required by Section 116 or the assessment and planning required under Sections 208, 209 and 303 (e), include, or be amended at any time to include, a strategy acceptable to the Administrator, for mitigating the effects of pollutants discharged from irrigated agricultural lands including a program requiring permits only as they are necessary to achieve and maintain the water quality standards in a state or basin . . .”

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Concerning
**Protection of Water Rights Under the Federal Water
Pollution Control Act**
January 28, 1977

WHEREAS, the member states of the Western States Water Council administer water resources management programs based upon a system of prior rights established under appropriation or riparian doctrines; and

WHEREAS, these management programs have resulted in extensive developments dependent upon the use and reuse of appropriated water; and

WHEREAS, the states exercise sovereign power to regulate and protect vested water rights; and

WHEREAS, water rights of users could be affected by implementation of the Water Pollution Control Act through the application of effluent limitations or best management practices.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council urges the administrator of the Environmental Protection Agency to recognize that the requirements and goals of the Federal Water Pollution Control Act must be met in a manner which protects vested water rights established under state law, and therefore careful and considerate attention must be given to devising programs, particularly under Sections 208 and 402 of the Act, that ensure that such rights are protected.

BE IT FURTHER RESOLVED that the Western States Water Council urges the administrator of the Environmental Protection Agency, as a means of protecting vested water rights, to adopt rules and regulations for implementation of programs under the Federal Water Pollution Control Act, which incorporate processes and procedures that afford flexibility and provide authority to state water resources administrators to apply the provisions of the Act in such a manner as to achieve improvements in water quality while protecting existing rights.

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Concerning
Extension of Time Limit for Preparation of 208 Plans Under the
Federal Water Pollution Control Act
January 28, 1977

WHEREAS, Section 208 of the Federal Water Pollution Control Act requires that areawide waste treatment management plans be prepared, certified by the Governor, and submitted to the Administrator not later than two years after a 208 planning agency has the planning process in operation; and

WHEREAS, an approved water quality management plan under Section 208 must include a municipal and industrial treatment works program, residual waste, urban stormwater, and non-point source programs, regulatory programs necessary for implementation, financial and institutional management programs, schedules and priorities for implementation, and an environmental, social and economic impact assessment; and

WHEREAS, two years is not adequate time for 208 agencies to prepare such comprehensive water quality management plans.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council urges Congress to amend Section 208 (b) (1) to extend the time in which 208 agencies have to prepare 208 plans to three years after 208 agencies have the planning process in operation.

POSITION STATEMENT
OF THE WESTERN STATES WATER COUNCIL

Concerning
DAM SAFETY LEGISLATION
As submitted by
United States Department of Army on
November 16, 1976
to the
Congress of the United States
Portland, Oregon

In response to the National Dam Inspection Act (P.L. 92-367) as approved by Congress, August 8, 1962, the Corps of Engineers transmitted a legislation proposal to the Congress on November 16, 1976. That transmittal, accompanied with supporting reports, was made by the Assistant Secretary of Army, Victor V. Veysey.

The Western States Water Council, meeting in Portland, Oregon on January 28, 1977, found the proposal to be unacceptable to the western states. The Council determined that it would urge western congressmen and western senators not to support the introduction of the legislation. The Council further determined that it was not at the present time supporting any federal legislation, but if the army proposed legislation were to be introduced, minimum modifications to that legislation would be necessary before the western states could consider supporting the proposal.

Letter to the Congressional delegation and Administration on the funding of western water projects.

Date

SENATOR

United States Senate

Washington, D.C. 20510

Dear Senator:

The Western States Water Council was created by the Western Governors' Conference in July of 1965. In the resolution creating the Council the Governors noted that the "future growth and prosperity of the western states depends upon the availability of adequate quantities of water of suitable quality." The Western States Water Council was therefore established to accomplish effective cooperation among western states in planning for programs leading to integrated conservation, use, and development by state, federal and other agencies of their water resources. Each of the eleven western states is represented on the Council by three members, appointed by and serving at the pleasure of the Governor, identified on the attached list.

Since its creation, the Council has actively considered, coordinated and commented on broad policy matters involving water in the western states. With regard to water resources development, the Council is guided by the principle that "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." Such development has long been recognized as essential to the arid West where water is such a scarce resource. Indeed, satisfying the competing demands on a limited water supply by increasing population represents a major challenge in the western states. In the midst of the worst drought in the West in recent memory, meeting this challenge is to a dramatic extent an ever present concern in the daily lives of the people in the region.

Reclamation projects authorized by Congress and constructed by both the Bureau of Reclamation and the Corps of Engineers span the

western states in the form of storage reservoirs, diversion dams and other water works. Many storage projects show the congressional recognition of the need of the western states to develop their rivers in order to provide dependable water supply for the ever increasing demands. The wisdom of Congress in authorizing and appropriating funds for the construction of these water projects in the West has been clearly demonstrated in the many social, economic, and environmental benefits these projects have provided.

Recently, the Western States Water Council has noticed a lack of balance in basic resource management amidst the growing complexities and pressing demands for other types of federal programs. Neglect of a well-rounded natural resources program threatens to weaken the nation in an area where it must be strong if it is to meet the needs of the future. By and large, the present healthy economy has been substantially bolstered by investments of the federal government in water and related land resource developments in the West. These federal efforts should be continued.

The Western States Water Council respectfully expresses its opposition to the recent announcement of the Administration that no funds should be appropriated for many water projects in the western states. These projects have been carefully evaluated at the local, state, and federal level, and subjected to the intense scrutiny of Congress before authorization and funding. This congressional review included a careful examination of the full spectrum of environmental, economic and social consequences. As an example of this scrutiny, Congress refused to authorize the proposed Echo Park, Bridge and Marble Canyon dams in the Colorado River Basin, because of environmental considerations.

The Administration has justified its announced actions on the basis that the proposed projects fail to meet economic, environmental and safety criteria newly established by the Administration. However, the affected projects in the western states have been submitted to meticulous environmental and safety reviews, not only by federal agencies and Congress, as previously indicated, but also in many cases by the federal courts. With respect to the economic criterion, it must be pointed out that basing a decision on whether to construct or complete a water supply development project in the West solely on the results of its present cost/benefit ratio reduces the government's role to that of a banker with a limited social conscience. Moreover, using the cost/benefit ratio as a basis for denying support of a project is contrary to the accepted philosophy of water resources planning as expressed in the Principles and Standards, for the cost/benefit ratio does not adequately reflect all of a project's economic, environmental, and social benefits.

In a year when water shortages are being acutely felt by citizens of the western states, it would be extremely unfortunate for the federal government to withdraw support for water conservation projects which will provide citizens of the region with better protection when droughts occur in the future, as they surely will. The Western States Water Council urges that funds be continued to be appropriated for the construction of water resources projects authorized by Congress. It is critical that such funds be forthcoming for the welfare of the citizens of the affected states. To do otherwise would be to abandon the congressional plan for development of needed water resources and to severely jeopardize the future growth and development of the West so vital to the Nation.

Sincerely,

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
THE ADMINISTRATION'S WATER RESOURCE POLICY STUDY
October 14, 1977

WHEREAS, the Administration has established procedures for review and reform of national water resources management policy;

WHEREAS, task groups have been assigned responsibility under these procedures for developing reports identifying options for consideration in the formulation of a new, national water resources policy; and

WHEREAS, under the timetable announced for the Administration's water resources policy study, these task groups are to submit draft reports November 7, and final reports by November 30 to the Policy Committee, under whose direction the policy study is being conducted;

WHEREAS, the western states have comprehensive water resource management programs which would be affected by, and which would affect any national policy on water resources management; and

WHEREAS, authority and domain over most water resources in the western United States has historically been vested and continues to be vested in the individual western states, and

WHEREAS, to achieve a truly "national" water resources management policy, the states must be given adequate opportunity to participate in the formulation of such policy.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council urges the Secretary of Interior, the Director of OMB, and the Chairman of CEQ, who together have been delegated

lead responsibility for undertaking this study, to authorize a meeting with representatives of the Western States Water Council according to the following guidelines:

(1) The meeting should be held shortly after November 7, (2) copies of the draft reports to be prepared by all task force groups by November 7 should be mailed as soon as they are available to members of the Western States Water Council in preparation for the meeting, (3) the chairpersons of each of the task groups as well as the lead representatives of any subgroups of the various task groups should be instructed to attend the meeting which would be held for two days in Salt Lake City, and (4) members of the Policy Committee should be encouraged to attend the meetings wherever possible.

HONORABLE CECIL D. ANDRUS
SECRETARY OF INTERIOR

Interior Building
Washington, D.C. 20240

Re: Proposed Regulations to Establish
Water Codes on Indian Reservations

Dear Secretary Andrus:

The Western States Water Council has reviewed the recently proposed regulations promulgated by the Bureau of Indian Affairs to establish water codes on Indian reservations. These proposed regulations would encourage claims for Indian reserved water rights not authorized under the present case law, could seriously disrupt state administration of water rights, and jeopardize thousands of non-Indian water uses established pursuant to state law. The Western States Water Council thus feels compelled to advise you of its opposition to the proposed regulations. It should be noted, however, that many of the Council member states have commented on the proposed regulations. The following statement is not intended to supersede those comments.

The proposed regulations would authorize tribal or secretarial water codes which create rights in individuals or entities to the use of water under the reserved rights doctrine. The regulations provide that such a right or use permit would be, following approval, "a federal permit . . . enforced as if it had been issued by the Secretary." Because the regulations purport to authorize water codes establishing rights in individuals or entities to water under the reserved rights doctrine, they would be valid only if the Secretary of Interior has the power to create individual rights to use of reserved waters.

It is settled that ". . . the power over distribution of tribal property has 'been committed by the Constitution to' the Congress." *Delaware Tribal Business Committee v. Weeks*, U.S., 45 L.W. 4202,

4204 (1977). This rule has been applied to reserved water rights. **United States v. McIntire**, 102 F.2s 640 (9th Cir. 1939); **United States v. Alexander**, 131 F. 2d 359 (9th Cir. 1942). Since reserved water rights are a part of the trust corpus, individual rights to the use thereof may be created only pursuant to express Act of Congress. **United States v. McIntire**, *supra*.

The claimed statutory authorizations for the proposed regulations are 25 U.S.C. Sections 1 (a), 2, 9 and 381. Section 1 (a) authorizes the Secretary to delegate his powers under the laws governing Indian affairs to the Commissioner of Indian Affairs. This section does not expressly provide authority for the Secretary to create individual rights to use of reserved waters. Section 2 grants the Secretary authority to implement specific laws. Section 9 grants power over relations between United States and the Indians, not a general power to make rules concerning Indian conduct. In **Kake Village v. Egan**, 369 (U.S. 60, 63 (1962)), the Supreme Court construed both Sections 2 and 9 and held the statutes were so limited. These sections do not expressly provide for creations of individual rights to use of reserved right waters. Section 381 authorizes the Secretary to prescribe such rules and regulations as he deems necessary to secure a just and equal distribution of water for irrigation agriculture purposes among the Indians residing on a reservation. This section does not expressly provide for creation of individual rights to use of reserved right waters, nor does it provide for secretarial creation of such rights. **United States v. Powers**, 305 U.S. 527 (1939); **United States v. McIntire**, *supra*. The section applies to distribution of water when the water supply is insufficient to meet irrigation requirements. It is a part of the 1887 General Allotment Act and applicable only on reservations which have been allotted in part or whole.

While none of the sections relied upon by the Secretary as authority for the proposed regulations expressly authorizes creation of individual rights to use of reserved waters, it is clear that such express authority is required. Express congressional authorization for distribution of tribal claims judgment monies (**Delaware Tribal Business Committee v. Weeks**, *supra*), or of tribal lands (Act of February 8, 1887, 24 Stat. 390), is also required.

There is no congressional enactment on reserved water right equivalent to these statutes authorizing easements, rights-of-way, leases or distribution of tribal trust property. Without such congressional action the Secretary lacks the authority lawfully to promulgate the Proposed 25 C.F.R. Part 260.

Even assuming the Secretary had the authority to establish water codes on Indian reservations, nothing in the statutes cited in the proposed rules authorizes the Secretary of Interior, the Commissioner of Indian Affairs, or any other federal official to delegate such authority

to Indian tribes. Rather, it is submitted that the proposed regulations are an attempt by the federal government to avoid taking an independent view of Indian rights and needs.

Under the section of the proposed regulations entitled "definitions," "reserved water rights" are defined to mean "those rights to the use of waters recognized as reserved in accordance with the principles enunciated in *Winters v. United States*, 207 U.S. 564 (1908), and subsequent cases, which rights have either an immemorial priority or a priority date as of the establishment of the reservation." The assumption underlying the claim for immemorial rights is that Indian treaties did not represent a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted. Therefore, it is argued that tribal Indians have reserved to themselves and are entitled to enjoy immemorial rights to as much of the waters traversing or adjacent to their reservations as they may wish to put to use.

However, there is no support in *Winters v. United States*, or in subsequent cases, for the concept of immemorial water rights for Indian tribes. In *Winters*, the Supreme Court stated: "The power of the government to reserve the waters and exempt them from appropriation under the state laws is not denied, and could not be . . . that the government did reserve them we have decided, and for a use which would be necessarily continued through the years. This was done May 1, 1888. . . ."

In *Arizona v. California*, the Supreme Court in 1963 restated the holding of *Winters* as follows: "The Court in *Winters* concluded that the government, when it created that Indian reservation, intended to deal fairly with the Indians by reserving for them the waters without which their lands would have been useless. *Winters* has been followed by this court as recently as 1939 in *United States v. Powers*, 305 U.S. 527. We follow it now and agree that the United States did reserve the water rights for the Indians effective as of the time the Indian reservations were created."

It is impossible to avoid the conclusion that the Court in *Arizona v. California* viewed *Winters* as based upon the reservation of waters for Indians by the United States. Therefore, the priority of such reserved rights dates from the time the reservation was established. Thus, the reference in the proposed regulations to an immemorial priority for reserved water rights lends credence to a concept which is contrary to the principle underlying reservation of waters for Indians as clearly set forth by the Supreme Court.

The definitions also describe "beneficial use" as any use of water, consumptive or otherwise, or agricultural, domestic, municipal, commercial, industrial, aesthetic, religious, or recreational purposes, or for the maintenance of adequate stream flows for fishery, environmental, or other beneficial purposes on an Indian reservation. This definition

represents the kind of open-ended authorization proposed by government attorneys in recent years with regard to the scope of the permissible use of water that may be deemed to be within the implied intent of Congress on establishment of a reservation. It is urged by some that uses of water which may not have been contemplated when the reservation was established are properly included in the reserved rights so long as they are reasonably necessary or appropriate for the purposes of the reservation. However, extending the reservation doctrine to include uses not contemplated when the reservation was established conflicts with the rationale underlying the doctrine.

Where the government has evidenced an intention to reserve water for use on withdrawn land, it is fair to impute to the government the intention to provide water for reasonably foreseeable uses to facilitate the purposes of the reservation. However, it is not reasonable to conclude that sufficient water is reserved for any use of water which goes reasonably to the fulfillment of the purposes of the reservation, regardless of the fact that the use was never contemplated by the government.

In particular, there is no evidence that the government ever contemplated industrial or instream uses for the fulfillment of any purposes clearly designated or fairly implied in the laws or treaties establishing Indian reservations. Thus, allowing members of Indian tribes to make claims for industrial uses or for instream uses for aesthetic, religious, environmental, and recreational purposes goes beyond the proper scope of the reservation doctrine as defined in the case law.

One of the "purposes" of the regulations is stated to be "to recognize, provide for, and assist in the exercise of the sovereign authority of Indian tribes within their reservations to govern the use of all reserved water rights therein." A recent trend in writings on Indian affairs is to describe the Indian tribes as sovereign nations. This development is no doubt due to the desire to provide justice for the Indian people. However, sympathy should not be allowed to convert a romantic political notion into a legal doctrine. There is no third source of sovereign and governmental power in the United States besides the federal and state governments. The blunt fact of the matter is that Indian tribes are not sovereign. To say otherwise is to ignore the historical reality that American Indian tribes lost their sovereignty through discovery, conquest, cession, treaties and statutes. Thus, there is no basis for recognizing the "sovereign authority of Indian tribes within their reservations to govern the use of all reserved water rights therein."

Another purpose of the regulations is stated to be the Department's trust responsibility to provide a method to preserve and protect in perpetuity all rights to the use of water reserved for the benefit of the Indians. However, it has long been recognized that reserved rights are not dependent upon the application of water to beneficial use for which the proposed regulations provide. Furthermore, such rights cannot be

lost by non-use. Therefore, the argument that procedures must be provided for Indians to exercise and regulate their reserved rights in order to retain them is specious.

The proposed rules provide that a complete record of all applications, actions taken thereon, and any permits issued shall be maintained by the tribe and shall be open for public inspection on the reservation. Thus, the proposed regulations would establish water right offices on each of the Indian reservations adopting a water code. The establishment of such offices represent a duplication of the water right offices already established within the respective states. A great many Indian water rights currently in use have been made in conformity with state law and the states have the present capacity and the experience to maintain the records of both Indian and non-Indian water rights and uses. Therefore, if Indian water right offices are established, western states suggest that coordination would be facilitated if copies of permits issued by the tribes were sent to the appropriate state offices.

There is no requirement in the proposed regulations that notice of hearings on applications be provided to the states. While it is a tenant of the reservation doctrine that the United States need not comply with state law in exercising its rights to put reserved waters to use, it is also recognized that the block of water that will ultimately be needed on the reserved lands may be used in the meantime by an appropriator who complies with state law. Thus, providing adequate notice of prospective Indian uses to state water users and state authorities is essential for good resource planning and for maintaining a safeguard against federal bureaucratic and tribal overreaching.

The provisions allowing a change in the time, place, and nature of water use are also objectionable. In the arid West, a substantial amount of the water diverted is not consumed and returns to the stream to be used again. As a result, the rights of most junior appropriators rely upon the existence of return flows from senior appropriators. Thus, procedures have developed whereby changes in the point of diversion, place or purpose of use must be approved by the state water engineer or his counterpart. The considerations of the state engineer in making this determination differ from state to state, but the rule is applied in all western states that other water rights, including those which depend on return flow, must be protected.

This rule is based on sound policy. Farmers would be reluctant to build irrigation works or make other investments necessary for utilizing return flows if they knew that a transfer by an upstream appropriator could wipe out their water supply. As a result, valuable water resources would be under utilized. By providing that the tribes may simply allow a change in place and/or nature of use without notice and without regard to its effect on other water right holders, the

proposed regulations could place the junior state water right holder at the mercy of the decision of an Indian tribe to allow one of its members to change the place or nature of his use.

The proposed regulations allow a permit to be issued for each potential use established by reservation land and water use inventories. Such an open-ended rule is objectionable for two reasons. First, it encourages federal bureaucrats to greatly inflate the claims made in such inventories to avoid being accused of inhibiting the purpose of the proposed rules "to provide for the present and future development of Indian reservations through the use of their reserved water rights." Second, it gives to such inventories a presumption to which they are not entitled. There is no requirement that the claims in such inventories have a legal basis supportable by evidence. There would be no required hearings held in preparing the inventories or a record of agency proceedings. It would be manifestly unfair to issue a permit for each use identified by potentially unsupported claims in such inventories and allow such permits to attain the status of a legal right unless challenged.

The proposed rules would allow a code to provide that permits could be submitted to the superintendent of the Bureau of Indian Affairs agency having jurisdiction over the reservation for his approval. When approved by the superintendent, the permit granted by the governing body of the tribe or its designated administrative official or body would be treated as a "federal permit" and be enforced as if it had been issued by the Secretary of Interior. If a tribe fails to enact an approved water code, then the Secretary is authorized to act on behalf of the tribe in issuance of permits and the regulation of reserved water rights of the reservation. In either case, appeals from the approval of the permit and other determinations "concerning any persons right to the use of water" are placed within the jurisdiction of the Board of Indian Appeals. The determination by the Board of Indian Appeals is "final" and there "shall be no further administrative remedy available." Each code is required to afford aggrieved persons the opportunity to seek judicial review of administrative determinations. No matter what the procedure, however, given the Indian tribes' preference for the federal court system, any judicial appeal from the administrative determinations of the tribes or federal officials will doubtless have to be brought before the federal courts.

There is no requirement in the proposed regulations that the reserved water rights subject to tribal jurisdiction be those defined and finalized through any legal procedures, i.e., a general adjudication suit. Without such legal determinations, it would be impossible to know to what amount of a water body the tribal code applies (i.e., the reserved portion of the waters flowing through a reservation) and to what amount of the water body a state's water code applies. Furthermore,

the first opportunity to challenge Indian reserved right claims would likely come incident to an application for a permit before an Indian tribe. Therefore, the determination of the validity of many Indian water rights claims would be placed exclusively in the federal agencies and the federal judiciary. Thus, despite the recent decision by the Supreme Court in the *Akin* case establishing concurrent jurisdiction in state courts to adjudicate Indian water rights claims, the proposed regulations assert that rights claimed by the Indian tribes or the federal government on their behalf, and which are subject to the administration of the tribes, are federal rights which are appropriately adjudicated only in a federal forum.

Many of the challenges to the Indian claims made pursuant to the proposed regulations would come from those asserting rights based on state law. Nevertheless, neither state administrators or state courts would have any voice in the determinations. The most obvious adverse result of this procedure would be that the states may lose control over their own water laws; the federal courts in the process of deciding between the Indian claims and the competing state and private claims founded on state laws would be in a position of building up a substantial body of case law giving their own interpretation to the laws of the states.

Such federal preemption of primary state jurisdiction over Indian water right is not only undesirable but unnecessary. Adequate safeguards for the Indian interest are available in that, as stated by the Supreme Court in the *Eagle County* case, the tribes can obtain federal court review of state determinations as to reserved rights claims.

In conclusion, it should be pointed out that the states have systems of water law adapted to local water supply, climate and demand. The United States and Indian tribes do not. If coordination and accommodation of Indian uses with state uses is to be achieved, instead of establishing a water code and a water rights agency for each Indian reservation, federal compliance with state water laws and procedures should be encouraged wherever possible. The result of this policy of compliance would be Indian water rights owned by the Indian tribe, created by federal law, but so procedurally conformed to private rights off the reservation, created by state law, that both Indian and non-Indian rights were inter-related and intermeshed into the same system of administration and enforcement. The proposed regulations by the Bureau of Indian Affairs are clearly a step in the wrong direction.

Sincerely,
Jack A. Barnett
Executive Director

Proposed letter to Secretary Andrus regarding the exclusion of Indian water rights from the national water policy review.

Honorable Cecil D. Andrus
Secretary of Interior
Washington, D.C. 20240
Interior Building

Dear Secretary Andrus:

As you know, when the Administration's water resources policy study was first announced, one of the five issue areas to be reviewed was entitled, "Indian Water Rights and Federal Reserved Water Rights." A task force was assigned to this issue area and prepared an option paper which addressed federal reserved water rights, including those reserved for the Indian tribes. Shortly before publication, it was decided that the option papers would not address the issue of Indian reserved water rights, but would instead be confined to non-Indian federal rights. The Western States Water Council hereby wishes to express its concerns about this decision.

The claims of federal implied reserved water rights is a significant problem in the West. These claims threaten existing water uses established under state law and frustrate sound water resources planning.

A large part of this problem is associated with the Indian reserved water rights. It is critical that a satisfactory resolution of this problem be achieved. However, if federal policy is established without participation or consultation with the states or the public in general, as is now contemplated by the Administration, it will not be possible to achieve the kind of balanced approach that is necessary, and the biases and misconceptions already apparent within the federal establishment will determine federal policy in this area. Moreover, the views of millions of non-Indian water users, who may be affected by implementation of such federal policies, will not be heard or considered.

The Western States Water Council therefore strongly recommends that the decision to exclude Indian water rights from the announced procedures for the water policy review be immediately reversed.
Sincerely,

WESTERN DOUGHT

The severe drought that hit the nation during 1977, particularly the western states, brought an immediate action from the Western States Water Council. The aid of the Council was solicited to summarize the states' problems in the drought and submit them to Secretary of the Interior Cecil Andrus, along with solutions the states had conceived to ease the problems. The Western States Water Council immediately began publishing a periodic drought newsletter entitled, "Update — Western Drought Conditions—1977," which was mailed to over

350 interested state people. The "Western Regional Drought Action Task Force" (WRDATF) was organized under the chairmanship of Governor Richard D. Lamm of Colorado in February, 1977. A Western Drought Conference was held in Denver, Colorado, on February 20 with eighteen states represented and Interior Secretary Cecil Andrus in attendance. The meeting concluded with: (1) a commitment by Secretary Andrus to seek the appointment of a White House level drought coordinator to be located in the Executive Office of the President; (2) a commitment by Secretary Andrus to encourage the President to set aside time for a discussion of the drought during a meeting of the President with the nation's Governors a week later; (3) a commitment by the Governors to consider the need for, and alternate approaches to cooperative, multi-lateral actions in response to the drought and its impacts; (4) a decision by the Governors to designate a state drought coordinator in each of their states; and (5) a decision by the Governors to consider various multi-state approaches to these issues at a meeting in Washington the following week in conjunction with the winter meeting of the National Governors' Conference.

At the National Governors' Conference, Western Governors met and decided to formalize the creation of the WRDATF. The staff of the Western States Water Council was designated to serve as the staff of the WRDATF. A total of 21 states joined the organization. Governor's representatives were designated to serve, and states contributed funds to the enlarged Western States Water Council staff effort. With help from Clark Ogden, recently hired by the Western States Water Council to serve as the WRDATF Drought Coordinator, a list of names was compiled of each state's Drought Coordinator and each Governor's representative to the WRDATF for twenty-one states including: Arizona, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Montana, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

In March, 1977, senior federal officials representing the Federal Disaster Assistance Administration, the Bureau of Reclamation, the Department of Agriculture, and Corps of Engineers were sent on temporary duty assignment to the Western States Water Council offices in Salt Lake City, Utah, to assist in the development of a coordinated intergovernmental drought mitigation strategy. One week later, President Carter sent a message to Congress which contained proposals designed to mitigate some of the effects of the severe drought. This message contained legislative recommendations and identified administrative and regulatory changes to the authority of the Departments of Agriculture, Commerce, and Interior, and the Small Business Administration needed to provide assistance to the drought affected areas. A total of \$844 million in drought related loans and grants was requested.

The first staff level meeting of the WRDATF was held in Salt Lake City on March 24 with twenty-one states represented. Dr. A. Berry Crawford, Acting Director of the Institute for Policy Research, was assigned to serve as the WRDATF representative in Washington, D.C. by Colorado Governor Richard D. Lamm.

On April 1, Dr. Crawford released the first of six weekly reports containing pending congressional legislation, guidelines and regulations of new legislation and state legislation. On April 7, President Carter signed the "Water Bank Bill," (S. 925), which provided \$100 million for making loans (5% interest) for water supply and conservation measures, and establishing a water bank of available water for redistribution. A Memorandum of Agreement was signed on April 25 by the Secretaries of Agriculture, Commerce and Interior, and the Administrator of the Small Business Administration to establish an Interagency Drought Emergency Coordinating Committee.

The second staff level meeting of the WRDATF was held in Denver, Colorado on April 27. Twenty-one western and mid-western states were represented, as were federal resource persons representing the White House Drought Coordinators, the Senate Committee Staff on Agriculture, Nutrition and Forestry, U.S. Department of Agriculture, Department of Interior/Bureau of Reclamation, Department of Commerce, Federal Disaster Assistance Administration, Federal Power Agency and the U.S. Army Corps of Engineers. Lt. Governor George Nigh of Oklahoma was elected chairperson of the Executive Committee of the Task Force and served as the Alternate Chairperson of the WRDATF. President Carter signed the EDA bill, S. 1279, which provided for short term water supply assistance to communities over 10,000 population.

Executive Director Barnett presented a status report of existing drought conditions and mitigation efforts on May 23 at the National Conference on Water in St. Louis, Mo. On June 3, a "Directory of Federal Drought Assistance—1977" was ready for distribution to state and local government officials and private parties to better understand and take advantage of available federal government assistance programs. This document was prepared by Dr. Crawford with assistance from the White House, the Department of Agriculture and other federal offices. President Carter signed HR 6197 (later numbered P.L. 95-51) on June 20, which permitted the Corps of Engineers to provide additional aid to areas in which the drought conditions were causing a substantial threat to the health and welfare of people or property. Also during June and July Ben W. Lindsay of the Utah State Department of Agriculture served as liaison between USDA and the drought impacted western and mid-western states. Mr. Lindsay spent considerable time with Glen Loomis, the USDA Drought Coordinator, in Washington, D.C.

The month of July brought a Memorandum of Understanding between the Bureau of Reclamation and the Farmers Home Administration which transferred funds of \$3 million initially to BOR under P.L. 95-18 for making and servicing loans to individual irrigators. All Senators and Representatives of the WRDATF member states received letters in July urging them to examine the options available to the Congress to allow for the appropriation or reallocation of funds to the water bank program established by P.L. 95-18.

In August, Jack Barnett addressed the Midwestern Governors' Conference in Afton, Oklahoma, reviewing the current drought situation. The month of August also brought a ninety-minute TV special entitled "Drought" before the public. The special explored the future of water in the West. Participating in the special as a panel were, Governor John Evans of Idaho, Governor Scott Matheson of Utah, Guy Martin, Assistant Secretary of the Interior, Ron Robie, WSWC member and Director of California Water Resources, Dr. John Dracup, a UCLA professor and hydrologist, Scott Reed, environmentalist, and Executive Director Jack Barnett of the Western States Water Council.

S. 1935, amending P.L. 95-18, the Water Bank Bill, was signed by President Carter in August providing for the release of unused funds from the "water bank" and giving the Secretary of the Interior authority to redistribute funds to other sections of the Act as needed.

Executive Director Barnett addressed the National Lt. Governors' Conference in Seattle in August on the drought efforts and the Western Governor's Conference in Anchorage, Alaska, in September and provided them with update information on the WRDATF activities and current drought situation.

In October, Section 1105 of Title XI of the Food and Agriculture Act of 1977 became effective which authorized the Secretary of Agriculture to implement an emergency feed program, available to any livestock owner who had suffered a substantial loss of production because of the drought. The deadline for application for FmHA Disaster Emergency Farm Loans was extended to December 2nd to give the farmers in drought areas two additional months to apply for loans. A workshop on Drought Research Needs and Priorities was held in Washington, D.C. on October 14-15. The workshop was sponsored by the WRDATF through the Institute of Policy Research, in cooperation with the National Science Foundation and the Corps of Engineers' Institute for Water Research to provide a forum for researchers, drought problem managers/information users, and research sponsors to interact and identify priority drought research needs, to design responsive R&D programs, and insure the timeliness and usefulness of research results.

A workshop was held in Denver on December 1-2 for the purpose

of estimating the economic impacts of the drought, assessing the effectiveness of actual and potential adjustments, considering how economic information could be more effectively disseminated to those in need of it and identifying the need for additional economic research.

BUDGET AND FINANCE

Secretary-Treasurer Daniel F. Lawrence reported on the Council budget at the April 22, 1977 quarterly meeting. Mr. Lawrence said that as a result of the drought and the necessity of hiring temporary employees, the Council's effort on the drought, to date, was evaluated at approximately \$18,000. Contemplated expenses in connection with the drought task force for the period from April 28 to November 1st was estimated at \$73,000. Partial reimbursement to the Western States Water Council was to be made at \$2500 from each non-member state and \$1500 from each member state. The Executive Committee voted that the \$1500 per member state dues would be taken from the reserve funds of the Council.

The Executive Committee also authorized the alteration of line items in the budget with the total budget remaining at \$155,100 and such changes are reflected in the financial statement. Estimated expenses to the end of FY '77 would leave a balance of \$133,140 in Council reserves. Council assessments were determined by the Executive Committee to remain at \$13,000 per state with an adopted budget of \$174,000 for FY '78. A projected reserve balance at the end of FY '78 would be \$107,000. Additionally, the Executive Committee voted to keep the FY '79 assessments at \$13,000 per state, which would keep the reserves well above a reasonable minimum. The Council has four time certificates of deposit through the State of Utah from First Security Bank of Utah.

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 proper and correct. The statement of revenue, expenditures and fund balance for the fiscal year ended Jun 30, 1977, as identified in the auditor's report, appear in this report.

WESTERN STATES WATER COUNCIL

GENERAL FUND

**Statement of Revenue and Expenditures and Fund Balance
For the Year Ended June 30, 1977**

	<u>Actual</u>	<u>Budget Note D</u>	<u>Actual Over- (Under) Budget</u>	<u>Actual Prior Year</u>
Revenues				
Member States' assessments..	\$143,000	\$143,000	\$	\$143,000
Interest income	9,435	.....	9,435	9,707
Drought assessments	5,616	.....	5,616	.....
Other	240	.....	240	9,346
Total Revenues	<u>\$158,291</u>	<u>\$143,000</u>	<u>\$ 15,291</u>	<u>\$162,053</u>
Expenses				
Salaries	\$ 76,311	\$ 77,000	\$ (689)	\$ 72,278
Travel	14,389	16,700	(2,311)	16,835
Printing and reproduction	12,516	13,000	(484)	10,167
Payroll taxes & employee benefits	8,736	8,800	(64)	6,377
Rent	8,470	9,200	(730)	7,453
Contract services	7,543	8,500	(957)	3,057
Telephone	6,164	6,200	(36)	4,742
Postage	3,500	3,500	.....	2,700
Unforeseen contingencies	2,406	2,500	(94)	1,454
Office supplies	2,234	2,500	(266)	2,100
Report and publications.....	1,389	1,800	(411)	1,339
Furniture and equipment.....	1,247	2,300	(1,053)	1,726
Meetings and arrangements..	1,137	1,600	(463)	521
Accounting	680	700	(20)	545
Insurance	396	800	(404)	383
Other	618	.....	618	11
Total Expenditures	<u>\$147,736</u>	<u>\$155,100</u>	<u>\$ (7,364)</u>	<u>\$131,688</u>
Excess (Deficiency) of Revenues over Expenditures	10,555	(12,100)	22,655	30,365
Fund Balance—Beginning of Year	<u>130,839</u>	<u>130,839</u>	.....	<u>100,474</u>
Fund Balance—End of Year ..	<u>\$141,394</u>	<u>\$118,739</u>	<u>\$ 22,655</u>	<u>\$130,839</u>

COMMITTEES

There are three working committees organized within the Council structure and members serve where their skills can be best utilized. The working committees are the Water Resources, Water Quality and Legal Committees. In addition, there is a Management Subcommittee and an Executive Committee which meet regularly on internal and business matters. By assignment of Committee chairmen, members serve on subcommittees studying and reviewing issues concerning all eleven Western States Water Council states.

Most of the formal actions and positions taken by the Council are a result of detailed study and recommendation accomplished by state representatives on subcommittees with assistance from Council staff. Recommendations are often made by subcommittees that are composed of a few of the member states to the full committees where states are represented. Council action often follows the recommendations of the full committees.

Committee Activities

Water Quality Committee

The Water Quality Committee, under the chairmanship of Don Maughan, continued to focus on amendments to the Federal Water Pollution Control Act (P.L. 92-500). The Irrigation Agriculture Subcommittee, which had been organized the previous year, presented to the Water Quality Committee in January four proposed amendments to the Act concerning Section 404, extension of the time frame statutorily required to finish initial Section 208 studies, and irrigated agriculture. These resolutions were passed by the Water Quality Committee and then by the Council at the January meetings. The resolutions were sent to western states' congressmen and members of congressional committees involved in amending the Act.

The Committee continued to monitor the progress of the congressional deliberations that ultimately led to passage of amendments to the Act, which were subsequently signed by the President in December. The amendments included three that were substantially in line with the Council positions developed by the Committee.

Besides assisting the Council in formulating and expressing common western states' positions on water quality matters, the Committee also provided important information to Committee members throughout the year on matters of interest. Some of the subjects which were discussed included the Safe Drinking Water Act, EPA enforcement actions under P.L. 92-500, studies being conducted by the General Accounting Office relating to water quality issues, and the efforts and activities of the Cooperative Instream Flow Service Group in Ft. Collins, Colorado.

At the invitation of the Committee, James Agee of the Environmental Protection Agency addressed the Committee at the October meeting on the water quality objectives of the Carter Administration.

Considerable discussion followed concerning the Administration's water policy review and the status and prospects of the Section 208 program under the Federal Water Pollution Control Act.

Feeling a sense of accomplishment in meeting their objectives with regard to amending the Federal Water Pollution Control Act, Committee members determined that specific objectives should again be identified for the Committee for the following year. Therefore, it was determined that a subcommittee would again be established to develop a proposed committee work agenda for the approval of the Water Quality Committee at the January, 1978 meeting.

Legal Committee

Under the leadership of Chairman Harry Pugsley, the Legal Committee began the year concentrating on the issue of reserved rights. The Committee heard in January a report on the success of the efforts of the Reservation Doctrine Subcommittee headed by Charlie Roe. The Subcommittee had been assigned by the Committee to arrange a meeting with staff attorneys from the various attorney general offices in the member states to discuss the reservation doctrine and associated issues. It was determined that the meeting had been most productive and educational and that efforts should be continued in this area. As a result, subsequent meetings on the reservation doctrine were held June 16-17 in Los Angeles and on December 13, in San Francisco.

These meetings allowed those attending to review pending litigation in the member states involving the assertion of reserved rights claims, and to discuss strategies in dealing with these claims. Additionally, at the December meeting, the participants reviewed and critiqued a proposed bill sponsored by the State of Washington to address the issue of reserved rights. Given the importance of this issue in the West and the success of the meetings, members of the Legal Committee determined that the Subcommittee's activities should be continued.

The Legal Committee was also instrumental in assisting the Council in adopting positions regarding proposed regulations to establish water codes on Indian reservations and a proposal to settle the water rights of Central Arizona Indian tribes. In addition, the Legal Committee continued to provide a forum for review and discussion of matters of interest to the western states. Examples of these subjects included legal issues arising because of the drought, the report of the American Indian Policy Review Commission, studies being conducted by the General Accounting Office regarding water rights in the West, and major court decisions.

The Legal Committee also continued its tradition of hearing from the state hosting the meeting concerning the water litigation procedures and recent developments. Thus, the Committee heard excellent reports in January and July in Oregon and Idaho water law respectively. Late in the year, the Committee authorized the preparation by the Council staff of a model amicus brief for use by the member states in the case entitled *Charlestone Stone Products v. Andrus*. The brief was subsequently endorsed by virtually all of the Western States and filed before

the United States Supreme Court.

At the July and October meetings, a principle issue involved the administration's water policy review. At the July meeting in Idaho Falls, Legal Committee members reviewed the option papers that had been published by the Administration concerning reserved water rights and institutions and institutional arrangements. At the October meeting, Legal Committee members had the opportunity to hear from the chairmen of the task forces assigned to develop the option papers in these two areas. Leo Eisel, Director of the Water Resources Council, also addressed the Committee, providing members with a review of the history and purposes of the Administration's water policy review.

The appointment of Ray Rigby as the new Legal Committee chairman was announced following the October meetings. Council Chairman Chris Wheeler expressed thanks on behalf of the Council for the fine leadership of Harry Pugsley during his tenure as Legal Committee Chairman.

Water Resources Committee

The Water Resources Committee was chaired through most of 1977 by Myron Goodson. Under Mr. Goodson's direction the Water Resources Committee discussed dam safety, the Water Resources Planning Act, weather modification, drought problems, reorganization of federal natural resource agencies, water for energy, funding for western water projects, water education, the federal water policy studies, 160-acre limitation, and irrigation efficiencies. The Water Resources Committee held four meetings during the year. Those meetings were held in connection with the Council meetings. Following the last meeting of the Water Resources Committee in October of 1977, the Chairman of the Council, Chris Wheeler, expressed his appreciation for the service rendered to the Council by Myron Goodson and appointed a new committee chairman, John Acord.

It is noteworthy that the Water Resources Committee provided leadership and technical input for the preparation of a report ultimately published by the Council entitled, "Water for Western Energy Development Update 1977." Positions taken by the Council concerning proposed federal dam safety legislation and concerning the President's 'hit list' approach to water project funding were initiated by the Water Resources Committee. Many of the issues addressed by the Committee did not move to a formal position by the Council during 1977, but the Water Resources Committee provided an excellent forum for Council members to become informed on the issues so that Council members might better respond to the issues as they represent their individual states and their governors. Federal officials attended Water Resources Committee meetings and reported to the Committee concerning the 160-acre limitation and study efforts by the task force assigned to the federal water policy review, including the subjects of revision of water resources planning and evaluation criteria and procedures, cost sharing, institutions and institutional arrangements, water conservation, and water research.

Membership during 1977 on the aforementioned committees was as follows:

Executive Committee

Wesley E. Steiner
Ronald B. Robie
Herman J. McDevitt
Harris D. Sherman
John E. Acord
Roland D. Westergard
S. E. Reynolds
Chris L. Wheeler
Thorpe A. Waddingham
Wilbur G. Hallauer
George Christopulos

Water Resources Committee

John E. Acord—Chairman
Wesley E. Steiner
C. J. Kuiper
George Yost
Donald L. Paff
Odis L. Echols
Daniel F. Lawrence
Wilbur G. Hallauer
Myron Goodson
Chris L. Wheeler

Legal Committee

Ray W. Rigby—Chairman
Tom Choules
Ronald B. Robie
Harris D. Sherman
Henry Loble
Roland D. Westergard
George Hannett
Harry D. Pugsley
Charles B. Roe, Jr.
Willard C. Rhoads
Chris L. Wheeler

Water Quality Committee

W. Don Maughan, Chairman
Froilan Cota
Harris D. Sherman
Herman J. McDevitt
Donald G. Willems

Hal Smith
S. E. Reynolds
Thorpe A. Waddingham
Jason King
Chris L. Wheeler
George Christopulos

Nominating Committee

John E. Acord—Chairman
Ronald B. Robie
S. E. Reynolds

Management Subcommittee

Chris L. Wheeler
Wesley E. Steiner
Donald L. Paff
Daniel F. Lawrence
Jack A. Barnett

Dam Safety Subcommittee

Donald L. Paff—Chairman
Wesley E. Steiner
Chris L. Wheeler
George Christopulos
A. Kenneth Dunn
C. J. Kuiper
Dee Hansen—Utah

Subcommittee on Reserved Rights

Charles B. Roe, Jr., Chairman
Ray Rigby
Tom Choules
Paul Bloom

Water Resources Planning Act Subcommittee

John E. Acord—Chairman
Wesley E. Steiner
Barry Saunders—Utah
Steve Macola—California
Robert W. Miller—California

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.

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 CHARTER

Objective

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.

COUNCIL OFFICE
220 South 2nd East
Salt Lake City, Utah 8411
STAFF

Jack A. BarnettExecutive Director
D. Craig BellAssistant Director
V. Clark OgdenDrought Coordinator
4-77
Pearl O. PollickOffice Manager
Fae O. DrakeReport Secretary
Virginia W. JensenLegal Secretary
Tracy EggintonSecretary
4-77 to 8-77
Deona MichelettiClerk
7-77
Rhonda McMillanClerk
3-77 to 5-77

MULTI-STATE WATER ORGANIZATIONS

In response to a request from the member governors and a recommendation by the Governors' Task Force for the Organization and Management of Multi-State and Regional Activities in the Mountain-Plains Area, the Council prepared a report designed to answer three questions:

1. How many western regional water organizations existed and their demands on and the benefits to state governments
2. How the time and money burdens could be reduced or the benefits increased from these regional organizations.
3. What steps could be taken to decrease the cost or increase the benefits to the participating states from these organizations.

In identifying and describing the multi-state organizations in the water resources area, the Council surveyed existing multi-state organizations (MSO's) and questionnaires were sent to over 100 MSO's. No attempt was made to identify problems with the MSO's in general or to evaluate their performance or productivity. The primary purpose of the report was to make recommendations for streamlining decision-making procedures and oversight-related reporting in multi-state water organizations.

The multi-state water organizations were divided into four groups for the purpose of the report: (1) Administering water compact commissions, (2) Title II river basin commissions and other joint federal-state MSO's, (3) Technical, single-purpose MSO's, and (4) General purpose MSO's. A report was prepared and sent to the governors on May 1 as requested by the governors' task force. The report was entitled "Western States' Water Resource Organizations: Future Roles."

The following is an updated summary of a section of the report describing the multi-state water organizations that exist in the western states:

(1) Administering water compact commissions

The **Arkansas River Compact Administration**, Frank G. Cooley, Chairman, 800 South 8th Street, P.O. Box 1156, Lamar, Colorado. The Arkansas River Compact was formed in 1948 between the states of Colorado and Kansas with three representatives from each state appointed by their governors.

The **Bear River Commission**, Wallace N. Jibson, Chairman, 22 East Center Street, Logan, Utah. The compact is between the states of Utah, Idaho and Wyoming. Three representatives are appointed by each of the governors and one is appointed by the President to serve as chairman.

The **Canadian River Compact Commission**, Leon W. Hill, Commissioner, Herring Plaza, Box H-4377, Amarillo, Texas, was formed in 1950 in accordance with the provisions of the Canadian River Compact with member states of New Mexico, Oklahoma and Texas. The governors from each of these states appoints a state representative to the Commission and one is selected by the federal government to serve as chairman.

The **Columbia Interstate Compact Commission** was never fully organized. In the 1950's, Congress authorized legislation giving the states authority to discuss, initiate and prepare a compact for the allocation and appropriation of waters for the Columbia River and all of its tributaries. However, subsequent efforts in the 1960's failed and the compact failed to materialize. According to Joel Haggard, who is the federal representative of the inactive Commission, the Commission stands ready to assist the states in any way. The current mailing address is 1530 Bank of California Center, 900 - 4th Avenue, Seattle, Wash.

The **Klamath River Compact Commission**, P.O. Box 388, Sacramento, California, is a compact between the States of Oregon and California. Each state selected one representative with the President appointing a federal representative to act as chairman.

The **Upper Colorado River Commission** was established in 1949 between the states of Colorado, New Mexico, Utah and Wyoming. The states' governors appoint representatives and the President appoints the chairman commissioner. Commission headquarters are at 355 South 4th East, Salt Lake City, Utah with Ival V. Goslin serving as Chairman Commissioner.

The **Costilla Creek Compact Commission** was formed in 1944 between the states of Colorado and New Mexico, each state having one representative on the Commission. The **LaPlata River Compact Commission** was created in 1922 between the states of Colorado and New Mexico with a representative from each state. The **Republican River Compact Commission** was established in 1942 between the states of Colorado, Nebraska and Kansas with a representative from each state serving. The **South Platte River Compact Commission** was created in 1923 between the states of Colorado and Nebraska, each state having a representative on the Commission. There are no official headquarters for the Costilla Creek Compact Commission, the LaPlata River Compact Commission, the Republican River Compact Commission, or the South Platte River Compact Commission.

The **Yellowstone River Compact Commission**, 332 New Federal Building, Bismarck, North Dakota, was established in 1951 between the states of Montana and Wyoming. Each state selects a state representative. One representative is selected by the director of USGS to act as chairman without vote, except where two states fail to agree.

(2)) Title II river basin commissions and other joint federal-state MSO's.

The **Arkansas-White-Red Basins Inter-Agency Committee** was formed by Congress to perform a comprehensive study of the Basin's area and was later chartered as an inter-agency committee. Eight federal agencies are members, as well as the states of Colorado, New Mexico, Kansas, Nebraska, Oklahoma, Texas, Louisiana and Missouri. Representatives are appointed by each state governor and the chairmanship rotates among the member federal agencies. The mailing address is c/o Department of the Interior—Room 4030, 517 Gold Ave., S.W., Albuquerque, New Mexico.

The **Columbia River Water Management Group** was organized to concentrate on those functions formerly handled by the Water Management Subcommittee of the Columbia Basin Inter-Agency Committee. The Group is composed of twelve federal agencies and the states of Idaho, Montana, Nevada, Oregon, Wyoming and Washington. The chairmanship of the Group rotates annually among the Bonneville Power Administration, the Bureau of Reclamation and the Corps of Engineers. Chairman until October 1978 is L. A. Dean of the Bonneville Power Administration, P.O. Box 3621, Portland, Oregon.

The **Coordinating Committee on the Missouri River Mainstem Reservoir Operations** was formed in 1953. Eight federal agencies participate as members of the Coordinating Committee with the states of Colorado, Iowa, Kansas; Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming. Mr. Elmo McClendon acts as chairman with headquarters at P.O. Box 103, Downtown Station, Omaha, Nebraska.

The **Missouri River Basin Commission** was formed in 1972 and consists of ten federal agencies, two interstate compact commissions and the states of Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming. Governors choose the state representatives and the President appoints the Commission chairman. The chairmanship is vacant due to the resignation of John W. Neuberger in 1977. John E. Acord, Vice-Chairman, is administrative officer until the President makes a new appointment. Headquarters are at 10050 Regency Circle, Suite 403, Omaha, Nebraska. The principle purpose of the Commission is to "serve as the principal agency for the coordination of federal, state, interstate, local and non-governmental plans for the development of water and related land resources . . ." in the Basin.

The **Pacific Northwest River Basin Commission** was formed in 1967 and consists of eleven federal agencies and the states of Idaho, Montana, Oregon, Washington and Wyoming. Representatives from the member states are appointed by their governors and the federal

agencies appoint the federal representatives. Guy W. Nutt is acting chairman following the resignation in 1977 of Chairman Donel J. Lane. A Presidential appointment is needed to fill the chief administrative office of the PNRBC. Permanent headquarters are located at No. 1 Columbia River, Vancouver, Washington.

The **Pacific Southwest Inter-Agency Committee** is the successor of the Pacific Southwest Federal Inter-Agency Technical Committee which was created in 1948. A revised federal inter-agency agreement on coordination of water and related land resources was approved by the President in 1954. Nine federal agencies and nine states are members of PSIAC. Member states are: Arizona, California, Colorado, Idaho Nevada, New Mexico, Oregon, Utah and Wyoming. However, Idaho and Oregon are not presently active. State governors choose the state representatives, while federal representatives are chosen by the highest departmental official having operational responsibilities. The chairmanship and headquarters rotate annually, with the present chairman being William E. Vandenberg, Col., Corps of Engineers, Deputy Division Engineers, South Pacific Division,, Department of the Army, 630 Sansome St., San Francisco, California.

(3) **Single purpose MSO's**

The **Western Snow Conference**, which was formed in 1933, is principally interested in coordination of water supply forecasts and techniques of snow surveying. Governed by an executive committee elected by the membership, the Western Snow Conference is open to any individual or organization interested in aspects of water supply forecasting and snow surveying. James L. Smith is presently serving as the general chairman and correspondence can be addressed to Room 360, U.S. Courthouse, Spokane, Washington 99201. No western states belong to the Conference.

The **High Plains Study Council** was created as part of the High Plains Project. L. D. Reece, 5500 Northwestern, Oklahoma City, Oklahoma is the lead staff to the Study Council which serves in an advisory and coordinating capacity for the Project. Six states participate in the Council: Nebraska, Kansas, Oklahoma, Texas, New Mexico and Colorado.

The **North American Interstate Weather Modification Council** was formed in 1975. Members of the Weather Modification Council are categorized as regular members, temporary regular members or affiliate members. The regular and temporary regular members are interested states and the affiliate members consist of conservancy districts, river commissions, research institutes and other associations interested in weather modification. The purpose of the organization is to coordinate intrastate and interstate as well as international weather modification activities.

The **Colorado River Basin Salinity Control Forum** was formed in

1973 with representation from the Basin states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. Each member state has up to three members on the Forum, appointed by their respective governors. The present chairman of the Forum is Daniel F. Lawrence, Director of the Division of Water Resources, 435 State Capitol Building, Salt Lake City, Utah.

The **Committee of Fourteen** was established in 1962 by the governors of the seven Colorado River Basin states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. The Committee was active in negotiations with Mexico leading to the agreement on salinity of Colorado River water delivered to Mexico pursuant to the Mexican Water Treaty and the passage of the Colorado River Basin Salinity Control Act in 1974. The Committee consists of two representatives appointed by each governor from the member states. There is no permanent address and the Committee meets as necessary.

(4) General pupose MSO's

The **Association of State and Interstate Water Pollution Control Agencies** was categorized as a General Purpose-Policy MSO and consists of state water pollution control administrators from the fifty states as well as representatives from interstate compact commissions. The ASIWPCA provides a forum to discuss water quality issues and, when appropriate, express a position on significant water quality problems. There is no permanent staff and the work of the ASIWPCA is accomplished on a voluntary basis. The presidency rotates each year and the present president is Dick Wittington, Box 13087, Capitol Station, Afton, Texas.

The **Association of Western State Engineers** was formed in 1928. State engineers from the states of Alaska, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming, Kansas, Nebraska, North Dakota, South Dakota, Texas, California, Arizona, Hawaii, Oregon and Washington make up the membership.

The present Association lead is Vern Fahy, State Engineer of North Dakota State Water Commission, 900 East Blvd. Bismarck, North Dakota.

The **Interstate Conference on Water Problems** was created as a result of a merger of two previous organizations: the Eastern States Conference on Water Problems and the Western States Conference on Water Problems. Dee Hansen of the Division of Water Rights, 442 State Capitol Bldg., Salt Lake City, Utah is the present chairman. ICWP was formally recognized in 1959 and has no permanent headquarters or full time professional staff. However, F. Robert Edman and Associates are retained as a private consulting firm on a part-time basis.

Many other water organizations were studied within the multi-state report which is available at the Western States Water Council offices.

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.

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

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

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.

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