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**1978**  
**Annual Report**



" 1978  
ANNUAL REPORT  
OF THE  
WESTERN STATES  
WATER COUNCIL "

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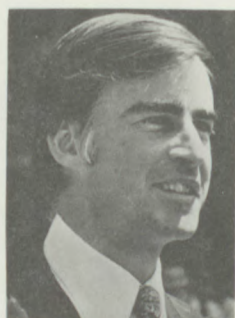
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1978  
GOVERNOR MEMBERS



**ARIZONA**  
Governor  
Bruce E. Babbitt



**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



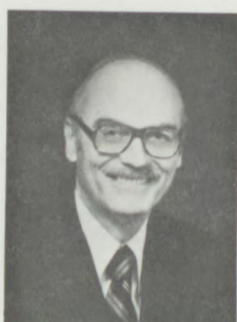
**NEW MEXICO**  
Governor  
Jerry Apodaca



**OREGON**  
Governor  
Robert Straub



**TEXAS**  
Governor  
Dolph Briscoe



**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

(801) 521-2800

### 1978 ANNUAL REPORT

#### THE COUNCIL

The Western Governors' Conference authorized the establishment of the WESTERN STATES WATER COUNCIL on June 13, 1965. 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.

For thirteen years the Council was comprised of eleven western states: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. At the June 1978 annual meeting of the Western Governors' Conference, the membership of the State of Texas into the WESTERN STATES WATER COUNCIL was approved by the member governors in response to a request from Governor Dolph Briscoe of Texas. A copy of the governors' resolution appears on page 9 of this report.

Much time and effort of the Council this past year was directed toward President Carter's water policy reform proposals. In 1977 President Carter initiated a study to identify needed water policy reform. The scores of suggested reforms which were identified in 1977 were narrowed in 1978. In June 1978, President Carter announced the water policy reforms that he had determined were to be accomplished by his Administration. To facilitate this effort, thirteen executive orders were initially announced and nineteen implementing task forces were created. Although general policy guidelines were given by the President, the details which will determine how implementation is accomplished are still being worked out by these task forces. Therefore, considerable time and effort was expended by the WESTERN STATES WATER COUNCIL and its member states during 1978 as these federal initiatives were analyzed and state responses formulated. At years end this effort was still ongoing as the states tried to communicate to the federal government their needs and to defend established states' rights and prerogatives.

Each governor member to the WESTERN STATES WATER COUNCIL has the opportunity of naming three representatives to serve on the Council. In addition, the governors may appoint alternates to serve in the absence of their state representatives. Within the Council structure these state members are assigned to one of three working committees: the Water Resources Committee, the Water Quality Committee or the Legal Committee. Members also serve on various subcommittee assignments made by the committee chairmen. A detailed report of Council and committee action follows.

Chris L. Wheeler, Oregon and Donald L. Paff, Nevada, completed a term as chairman and vice-chairman respectively in July, 1978. At the annual meeting held in July, Donald L. Paff was elected to serve as chairman and George Christopulos was elected as vice-chairman. At the request of the new chairman, Daniel F. Lawrence, of Utah continued to serve in the capacity of secretary-treasurer.

1978

WESTERN STATES WATER COUNCIL  
MEMBERSHIP

Chairman

Donald L. Paff - Nevada  
7-78  
Chris L. Wheeler - Oregon  
7-77 to 7-78

Vice Chairman

George L. Christopulos - Wyoming  
7-78  
Donald L. Paff - Nevada  
7-77 to 7-78

Secretary-Treasurer

Daniel F. Lawrence - Utah  
7-73

ARIZONA

\*Governor Bruce E. Babbitt  
4-78  
Governor Wesley Bolin  
11-77 to 4-78 - deceased  
\*\*Wesley E. Steiner  
Tom Choules  
Robert E. Lundquist  
10-78  
Larry Deason (Alt.)  
3-78  
Froilan Cota  
2-76 to 10-78

CALIFORNIA

\*Governor Edmund G. Brown, Jr.  
\*\*Ronald B. Robie  
W. Don Maughan  
Senator Ruben Ayala  
2-78

COLORADO

\*Governor Richard D. Lamm  
\*\*Harris D. Sherman  
C.J. Kuiper

IDAHO

\*Governor John V. Evans  
\*\*Herman J. McDevitt  
George L. Yost  
Ray W. Rigby  
Steve Allred (Alt.)  
A. Kenneth Dunn (Alt.)  
Cy Young (Alt.)

MONTANA

\*Governor Thomas L. Judge  
\*\*John E. Acord  
Donald G. Willems  
Henry Loble  
Ted J. Doney (Alt.)  
Orrin A. Ferris (Alt.)  
6-74 to 12-78

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  
Odin L. Echols  
David P. Hale (Alt.)

OREGON

\*Governor Robert Straub  
\*\*Chris L. Wheeler

TEXAS

\*Governor Dolph Briscoe  
10-78  
\*\*Bill Clayton  
10-78  
Charles Nemir  
10-78  
A. L. Black  
10-78

UTAH

\*Governor Scott M. Matheson  
\*\*Thorpe A. Waddingham  
Harry D. Pugsley  
Daniel F. Lawrence  
Dallin Jensen (Alt.)

WASHINGTON

\*Governor Dixy Lee Ray  
\*\*Wilbur G. Hallauer  
John Spencer  
Charles B. Roe, Jr.  
Jason King  
4-77 to 4-78

WYOMING

\*Governor Ed Herschler  
\*\*George L. Christopulos  
Willard C. Rhoads  
Myron Goodson  
Jack D. Palma II (Alt.)  
2-78

\*Governor Member  
\*\*Executive Committee Member

## COUNCIL ACTIVITIES

The **forty-ninth** quarterly meeting of the WESTERN STATES WATER COUNCIL was held in Phoenix, Arizona on January 27, 1978. A report on water resource activities in Arizona and Arizona's water supply was given by Wesley Steiner. Executive Director Jack Barnett reported on irrigation efficiency studies and the Western States were invited to review a draft report in cooperation with a subcommittee of the National Governors' Association chaired by Governor Scott Matheson of Utah.

An update on the activities of Water and Man, Inc. was given. Water and Man, Inc. is a non-profit water education cooperation supported by the WESTERN STATES WATER COUNCIL and other water organizations. The National Water Resources Association provided \$2,500 toward the Water and Man, Inc. effort. These funds together with \$2,000 previously committed by the WESTERN STATES WATER COUNCIL were earmarked for the preparation of a water education activity guide which would serve as the backbone and first necessary step toward the preparation of a varied and balanced water education program for the western schools - kindergarten through the twelfth grade. The Bureau of Reclamation committed \$5,000 to help finance the initial activity.

It was recommended that the 1977 Western Regional Drought Action Task Force be disbanded following a workshop on emergency preparedness. Informational update was heard on the western coalition, the Western Regional Council and Federal reorganization efforts.

The working committees reported on their meetings held the preceding day. The Water Quality Committee heard reports on the Water Pollution Control Act (P.L. 92-500) and efforts on the President's reorganization project. The Legal Committee participated in a discussion on (1) the Charlestone Stone Products, (2) New Melones, (3) Mimbres Valley and (4) Pyramid Lake cases. Assistant Director Craig Bell reported to the Legal Committee of the decisions concerning the 160-acre limitation in the 1902 Reclamation Law and recent legislation concerning Indian rights. Recent developments in Colorado, Washington, Montana, and Arizona were given by state representatives. The Water Resources Committee discussed the 160-acre limitation and dam safety with the result that Jack Barnett was instructed to testify before the Senate Public Works Committee concerning dam safety. Mr. Barnett based his testimony on previous WESTERN STATES WATER COUNCIL positions. Also discussed at the **forty-ninth quarterly Council meeting** was the Federal water policy, amendments to 89-80 and Title III grants.

The **fiftieth** quarterly meeting of the WESTERN STATES WATER COUNCIL was held in Salt Lake City, Utah, April 28, 1978. Committee meetings were held the preceding day. An official request from the State of Texas was received requesting full voting membership in the WESTERN STATES WATER COUNCIL. As the Council's Rules of Organization do not provide for expanded membership, the Texas request was forwarded to Governor Ariyoshi, Chairman of the Western Governors' Conference.

The work of the Western Regional Drought Action Task Force officially ended and the employment of the Staff Coordinator for Drought Activities was terminated. Warren Hofstra, an employee of the U.S. Geological Survey in



Denver, reported on the national water use data study. Dee Walker, Assistant Director of the U.S. Water Resource Council, advised members of water resource planning in the future and of previous events concerning the U.S. Water Resources Council.

A report was heard regarding Section 404 and the Gray Rocks Dam in Wyoming. The report to the Council on the Legal Committee activities was given by Committee Chairman Ray Rigby, Idaho. The Legal Committee heard reviews of several Washington State cases, the decision of the Idaho Supreme Court to deny claims made by the Federal government for reserved rights to minimum stream flows on national forest lands for the purposes of preservation of fish and wildlife and recreational and aesthetic purposes. The Legal Committee also discussed the oral argument before the Supreme Court on the Mimbres Valley case and the result of North Dakota's lawsuit regarding the Administrations's water policy review. The Legal Committee agreed to a joint effort with the Water Quality Committee on issues identified in the Water Quality Committee's work program. This subcommittee consisted of Henry Loble, Chairman, Charles Roe, Dave Robbins, Jack Palma, and Tom Choules. The Legal Committee also proposed a joint effort with the Water Resources Committee on three items listed in the Water Resources Committee work program. The 160-acre limitation issue was discussed at some length.

A work program for the Water Quality Committee was approved, reported Don Maughan, Chairman of the Water Quality Committee. Glen Loomis of the Soil Conservation Service reported on cost sharing under the new soil erosion provisions. Dallin Jensen informed Committee members of a study of state laws concerning instream flows which he had compiled with the cooperation of Richard Dewsnup. Water Quality Committee members were brought up-to-date on a number of water rights and water quality conflicts.

The report of the Water Resources Committee was given by Chairman Jack Acord. Keith Higginson, Commissioner of the Bureau of Reclamation, reported on the position of the Administration regarding the 160-acre limitation. Also reporting on the 160-acre limitation was Pat O'Meara, Executive Director of the National Water Resources Association, and Leonard Johnson, Coordinator of the American Farm Bureau, Water and Land Resources, Salt Lake City, Utah. The Water Resources Committee considered amendments to P.L. 89-80 and heard the following reports: irrigation efficiency, dam safety, revenue bond financing, and agriculture land retention acts.

In connection with the **fifty-first** quarterly meeting of the **WESTERN STATES WATER COUNCIL** in Cody, Wyoming, Council members met in a joint three-committee meeting on July 27, 1978. Members were brought up-to-date on items relating to the National water policy. The recent Supreme Court actions were discussed. John Bryson, Chairman of the Water Resources Control Board of California, reported on the Supreme Court decision in **California v. United States (New Melones)**. Craig Bell of the Council staff reported on the decision in **United States v. State of New Mexico (Mimbres Valley)** and Roland Westergard reported on the decision in **Andrus v. Charlestone Stone Products, Inc.** New developments on the proposed Gray Rocks Dam in

Wyoming were reported. Matters regarding 404 permits and a problem involving pumps authorized by the State of Idaho on the Snake River was reported. The following items were also discussed: an amendment to the Endangered Species Act, the Supreme Court decision in the Tellico Dam case, the National Governors' Association Task Force on Indian Policy, EPA's proposal concerning water quality standards, two Senate bills regarding dam safety, flood plain management and the federal government reorganization.

The **fifty-first** quarterly meeting of the WESTERN STATES WATER COUNCIL was held July 28, 1978 in Cody, Wyoming. Chairman Wheeler reported on the Council's accomplishments and activities for the past year. Election of Council officers was held with Donald L. Paff, Nevada, elected as Chairman and George Christopoulos, Wyoming, elected as Vice-Chairman for the 1978-79 year. Daniel Lawrence, Utah, agreed to continue to serve as Secretary-Treasurer of the Council for the year 1978-79 at Chairman Paff's request.

The budget report was given by Secretary-Treasurer Daniel Lawrence. The Auditor's report appears on page 32.

The Executive Committee appointed a subcommittee to discuss with representatives of the State of Texas the equity arrangements necessary to give Texas full membership in the WESTERN STATES WATER COUNCIL as directed by the Western Governors.

Wyoming water news and a report on dam safety laws in the state was given.

Activities of the Water Resources Committee included a report regarding the Water Resources Planning Act and the latest dam safety bills. The Water Resources Committee, with the assistance of the staff, agreed to monitor the efforts attempting to promote funding for water projects and the activities regarding legislation to amend the Endangered Species Act.

Don Maughan, Chairman of the Water Quality Committee, reported on the discussion of the Safe Drinking Water Act. The Water Quality Committee heard representatives of the States of Washington, Colorado and Wyoming give presentations regarding organization in their individual states in the area of water quality/water quantity/water rights programs. Another item discussed in the Water Quality Committee meeting was the Culver amendment to the agricultural cost sharing program under the Federal Water Pollution Control Act. A legal review was given to Water Quality Committee members by Assistant Director Craig Bell.

Ray Rigby reported on activities of the Legal Committee. Particular attention was given to the Amicus Briefs in the three Supreme Court cases which were prepared by Craig Bell, Assistant Director. The Supreme Court decisions were examined at length in the Legal Committee meeting. A report on Wyoming law and procedures was heard. The Legal Committee discussed water quality/water

rights conflicts and a subcommittee of Dave Robbins, Jack Palma and Charles Roe was named to do research on particular issues in the water quality/water rights area. An update on the 160-acre limitation was given. A resolution proposed by California in regard to the Supreme Court decision in **California v. United States** was passed unanimously and appears on page 10 .

The **fifty-second** quarterly meeting of the WESTERN STATES WATER COUNCIL was held in Victoria, British Columbia, Canada on October 25, 1978. This was a landmark meeting, as this was the first time the Council had met outside of the United States and it was the first time in the Council's 13 year history that the membership was expanded. The meeting began on October 24, 1978 with a special session to consider a resolution which would grant membership in the WESTERN STATES WATER COUNCIL to the State of Texas. The resolution passed unanimously and appears on page 11 . With the conclusion of the special session a joint three-committee information session began. Many federal representatives were present to discuss the activities of the nineteen task forces on implementation of President Carter's water policy reform. Items discussed included: the immediate future of Titles I, II, and III of the Water Resources Planning Act, the Water Resources Council's efforts in the current water policy reform program and the future of the Water Resources Council. The staff report included cost sharing, the New Melones decision, dam safety and the Endangered Species Act.

The regular session of the **fifty-second** quarterly meeting of the WESTERN STATES WATER COUNCIL was held on October 25, 1978. Dr. T. Leach of the British Columbian Ministry of the Environment described to the Council the organization and function of the Ministry of the Environment. A detailed report of a study that had been conducted by the Ministry of the Okanagan River Basin in Canada was given by Mr. A. M. Thompson. Following this presentation, several officials from the Ministry were introduced as a panel and a detailed and informative question and answer period followed between Council membership and the employees of the Ministry.

A report on the activities of the Dept. of Ecology in the State of Washington was heard, and then a discussion followed on some of the working relationships which have developed between the State of Washington and British Columbia.

The Council considered a comprehensive position concerning the proposals in the President's water policy reform efforts. The Council, adopted this position unanimously and it is made a part of this annual report on page 12.

Henry Loble gave a report of the activities of the Legal Committee. The Legal Committee heard a report by the State of Washington concerning litigation in Washington and state water laws. The Legal Committee, in its meeting, approved a request by the State of Nevada for the Council staff to prepare an **amicus** brief supporting Nevada's position in a case now being considered entitled, **U.S. and Pyramid Lake Piute Tribe v. Truckee-Carson Irrigation District, et al.** The Legal Committee proposed to the Council that a position be adopted by the Council concerning proposed rulemaking by EPA. This position

was adopted unanimously by the Council and appears on page 28. The Legal Committee also proposed that the Council take a position concerning the 160-acre issue. That position was passed by the Council. California voted in opposition to the position and asked that their opposition be so noted at all times when the Council position is publicly expressed. The position as adopted can be found on page 29.

John Spencer reported on the Water Quality Committee meeting. The Committee entered into discussions with representatives from the Ministry of the Environment of the British Columbian Government concerning their water pollution control efforts. The Committee also discussed the relationship of the WESTERN STATES WATER COUNCIL with the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA). The Committee drafted a resolution dealing with the activities of the Fish and Wildlife Service and that agency's insistence that Section 404 permits and Section 10 permits issued by the Corps of Engineers consider total flow in the Columbia River. A position was proposed by the Water Quality Committee and that position was adopted unanimously by the Council and appears on page 29. The Water Quality Committee also proposed a position concerning Section 208. That resolution was adopted unanimously by the Council and appears on page 30.

Jack Acord reported on the activities of the Water Resources Committee and their discussions concerning the Water Resources Planning Act, state grants, the future of the U.S. Water Resources Council, the Proposed reorganization of the federal government, potential dam safety legislation, and the 160-acre limitation issue.

**POSITIONS - RESOLUTIONS**

**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.

# WESTERN GOVERNORS' CONFERENCE

165 POST STREET, 5th FLOOR • SAN FRANCISCO, CALIFORNIA 94108

## VII. CONCERNING ADMISSION OF TEXAS TO THE WESTERN STATES WATER COUNCIL

The Western States Water Council (WSWC) was created in 1965 by the Western Governors' Conference. The rules of organization of the WSWC provide that "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."

In May of 1966, Texas accepted the invitation of the Western Governors' Conference to appoint official observers to attend all subsequent WSWC meetings without vote or financial obligation. Since that time, members of the WSWC have enjoyed a mutually beneficial association with the observers from Texas at WSWC meetings. The Council has met twice in Texas, and at its most recent visit in October of 1975, Governor Briscoe personally addressed the Council, expressing his views on current water issues.

By a letter dated April 27, 1978, to Chris L. Wheeler, Chairman of the WSWC, Governor Briscoe requested that Texas be permitted full voting membership in WSWC.

At its meeting on April 28, 1978, in Salt Lake City, Utah, the Executive Committee of the WSWC determined that additional membership in the WSWC could only be allowed by the Western Governors' Conference and so the matter was referred to Governor Ariyoshi, Chairman of the Western Governors' Conference, by letter dated May 26, 1978.

The Western Governors, meeting as the Western Governors' Conference at Honolulu, Hawaii, on June 17, 1978, hereby determine that the membership of Texas in the Western State Water Council would be advantageous to the current members of the Council and that Texas should be admitted to the Council pursuant to Governor Briscoe's request. However, it is recognized that if Texas is to be permitted full voting membership in the WSWC, assessments to Texas will have to take into account the present member states' equity in office equipment and facilities and carry-over funds from past years' assessments.

The Western Governors' Conference hereby directs the WSWC to determine appropriate assessments by which Texas could achieve equity with the other member states over a short term of years in the WSWC office equipment and facilities and carry-over funds from past years' assessments. If these proposed assessments are acceptable to the Executive Committee of the WSWC and to the State of Texas, then the Western Governors' Conference hereby directs the WSWC to amend its rules of organization to provide full voting membership for the State of Texas, together with all rights and privileges enjoyed by member states of the WSWC.

Approved, 1978 Annual Meeting,  
Western Governors' Conference,  
June 17, 1978

**RESOLUTION**  
of the  
**WESTERN STATES WATER COUNCIL**  
Regarding the Response  
of the  
Federal Government  
to  
**CALIFORNIA v. UNITED STATES (1978)**  
Cody, Wyoming  
July 28, 1978

WHEREAS:

1. In **California v. United States**, the Supreme Court, on July 3, 1978, held that the federal government in acquiring water rights for reclamation projects is required to observe the substance as well as the form of state water rights laws - including compliance with permit conditions developed pursuant to such state laws, so long as such conditions are not inconsistent with clear congressional directives; and

2. It is vital that the states and the United States work together to implement the Court's decision; and

3. At least a limited number of federal officials are considering substantial additional litigation and possible legislative initiatives in an effort to limit the effect of the Supreme Court decision and to narrow the role of the states with respect to federal reclamation projects.

THEREFORE, BE IT RESOLVED: That the Western States Water Council request the President of the United States and the Secretary of Interior to direct that federal officials (1) cooperate with the states in implementation of the holding in the case of **California v. United States**, (2) ensure that federal reclamation projects operate according to state water rights laws, and (3) recognize the primary role of states in allocation of water resources within their respective jurisdictions.

**RESOLUTION**  
**Granting Membership in the**  
**WESTERN STATES WATER COUNCIL**  
**to the**  
**STATE OF TEXAS**  
**October 24, 1978**

Pursuant to a letter of request from Texas' Governor Dolph Briscoe, and pursuant to the response to that letter by the Western Governors' Conference, as that Conference was convened in Honolulu, Hawaii on June 17, 1978, the Western States Water Council hereby resolves that as of October 24, 1978, Texas is a full member of the Western States Water Council.

Further, to accomplish the necessary changes to the "Rules of Organization" of the Western States Water Council, the Council hereby amends Article V entitled "Membership" under Subsection (1), by inserting the word Texas after the word Oregon.

The Western States Water Council, at this time, further agrees that the State of Texas should pay to the Western States Water Council funds in the amount of \$15,000 so as to allow Texas to contribute funds equal to the determined current financial worth of the Western States Water Council. Texas contributions will be made in the amount of \$6,000 during the first year, \$5,000 during the second year, and \$4,000 during the third year.

Further, it is agreed that Texas will pay a full Council membership fee for the 1979 fiscal year which is in the amount of \$13,000 and will contribute amounts of membership fees equal to other states' contributions for all forthcoming years.



**POSITION**  
on  
**THE ADMINISTRATION'S WATER POLICY REFORMS**  
by  
**WESTERN STATES WATER COUNCIL**  
October 25, 1978

The Western States Water 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 an increasing population represents a major challenge in the western states. Meeting this challenge is, to a dramatic extent, an ever present concern in the daily lives of the people of the region.

To meet this challenge, the western states have comprehensive, ongoing water planning management programs. Transformation of the West into an economically productive and socially inhabitable region is due in significant part to the success of these state water programs and the security afforded by state-granted water rights. The federal government has also played a significant role by providing financial and technical assistance in developing a controlled and sufficient supply of water of good quality as an essential foundation for a viable economy.

The major question pertinent to the Administration's water policy proposals is: what is the proper role of the federal government in water resources? While this statement will address specific proposals by the Administration, it is important to note in preface that the states insist that federal involvement in traditional state responsibilities is not in the national interest. Neither is a significantly decreased federal role in designing, constructing and financing water projects in the national interest.

Any new national water policy "must recognize and respect the rights of the states to administer their individual water laws and manage their water resources." This statement comes from a set of "Fundamental Principles for a National Water Policy" adopted unanimously by the National Governors' Association on February 28. A copy of the document is attached to this statement for your reference. The member states of the Western States Water Council further believe that a national water policy must respect rights established and recognized by interstate water compacts adopted by the respective states and ratified by Congress.

Another point that should be made in preface concerns the opportunity for state input into the development of the President's water policy reform proposals. Commitments were made by Administration representatives that state participation would be allowed in the deliberations of the various task forces assigned to propose national water policy reforms. However, chiefly because of the time period for completion of the policy review, notice to state participants and access to draft materials was generally not such as to allow state representatives to participate in a meaningful way. Indeed, the lack of opportunities for meaningful state participation in most cases was one of the reasons which prompted the Subcommittee on Water Management of the National Governors' Association, led by Governor Matheson of Utah, to develop and propose its own fundamental principles for a national water policy.

Some states believe authorized projects need reevaluation and would concede that priorities need reexamination so long as the process involves the states and Congress, as well as the federal administration. However, it would be unfair for the Executive Branch to unilaterally apply new criteria and priorities with respect to projects already authorized by Congress.

The President has proposed an increased level of cost sharing by the states in the construction of water projects. There is limited support among some of the western states for the concept of a state participating in paying some of the costs of future water projects in the state. But even among the states that support the cost sharing concept, some are concerned about the President's proposal to apply state cost sharing requirements to projects in the authorized backlog to the extent that states which would voluntarily enter into the recommended cost-sharing arrangements would achieve expedited Executive Branch consideration in priority for project funding.

Specific comments on the proposal for mandatory state cost sharing for future water projects cannot be made at this time, inasmuch as members of the Western States Water Council have not had the opportunity to review legislation to implement the President's proposal. We understand that the Administration is currently in the process of drafting such legislation and drafts have been circulated among various federal agencies. However, as this legislation is reviewed by Congress, we would urge consideration of the establishment of flexible methods by which a state could contribute to water project costs.

The proposed "cap" for state participation of  $\frac{1}{4}$  of 1% of the state's general fund revenues per project per year does not reflect adequate appreciation of the problem with respect to very large projects that the cost-sharing provisions would create for smaller states. In the first place, there are constitutional restraints on some states' ability to incur debt. Secondly, a state incurring bonded indebtedness to pay its share of irrigation project costs may never be fully reimbursed, because the 1902 Reclamation Act does not require irrigators to pay interest on payments to recover project construction costs. Further, it is the Administration's view that

excess power revenues from water projects in river basin accounts could not be used to help reimburse the states for their portion of water project costs attributable to irrigation agriculture. In any event, both political and institutional constraints on the use of state revenues call for allowing the states maximum flexibility in the manner and methods by which they could contribute any increased share of water project costs.

With respect to the planning of water projects, the President proposes to establish in the Water Resources Council a "project review function." Establishing such a review function should be based on the understanding that the Office of Management and Budget would not continue to perform what would then be a duplicative review of water project planning. If such were not the case, then the new review function of the Water Resources Council would represent an additional and unnecessary layer of bureaucracy to penetrate in the course of project study and authorization. The application of the existing Principles and Standards in project formulation the intra-and-interdepartmental review processes, including the environmental impact statement process, and analysis by the Office of Management and Budget, in addition to the review by Congress, are sufficient to ensure the prudence of federal activities in water project planning, development and management.

The existence and uncertain extent of federal reserved water rights is a significant problem in the West. These rights 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. The President announced his intention to work promptly and expeditiously to inventory and quantify federal reserved and Indian water rights. This quantification effort is to emphasize negotiation rather than litigation wherever possible. However, where negotiation fails, the President has directed that Indian reserved rights be adjudicated in federal courts. Not all states object to the adjudication of Indian water rights in federal court, where the circumstances are appropriate. However, all western states object to precluding state court adjudication of Indian water rights.

After extended and hard-fought litigation, the states were successful in 1976 in securing a decision from the Supreme Court to the effect that state courts may properly adjudicate all reserved rights, including those reserved on behalf of the Indian tribes. In the decision, which arose in Colorado (*Akin*), the Court clarified the terms of the McCarran Amendment, which was passed by Congress in 1952 to provide a general waiver of sovereign immunity in the area of water rights. Citing from the Senate report on the McCarran Amendment, the Court observed that:

"It is apparent that if any water user claiming to hold such right by reason of the ownership thereof by the United States or any of its departments is permitted to claim immunity from suit in, or orders of, a state court, such claims could materially interfere with the lawful and equitable use of water

for beneficial use by the other water users who are amenable to and bound by the decrees and orders of the state courts. Thus bearing in mind the ubiquitous nature of Indian water rights in the Southwest, it is clear that a construction of the amendment excluding those rights from its coverage would enervate the Amendment's objective."

As a result of **Akin**, the states believe that they have been successful in establishing a method to meaningfully quantify Indian reserved water rights within their long established state water resource systems. Indeed, **Akin** should have ended all doubts as to the purpose of the McCarran Amendment to include all reserved rights within its purview, so that the uncertainties surrounding the legal claims of reserved water rights could once and for all be settled. As the Court pointed out in **Akin**,

"[i]ndeed, we have recognized that action seeking the allocation of water essentially involve the disposition of property and are best conducted in unified proceedings . . . . The consent to jurisdiction given by the McCarran Amendment bespeaks a policy that recognized the availability of comprehensive state systems for adjudication of water rights as the means for achieving these goals . . . ."

Obviously, the President cannot amend the McCarran Act by issuing an executive order or establishing an Administration policy. Nevertheless, the President's announced policy of adjudicating Indian water rights exclusively in federal courts is clearly inconsistent with the congressional policy established in the Act, as interpreted by the Supreme Court, recognizing the appropriateness of adjudicating federal reserved rights claims, both Indian and non-Indian, in a state forum.

There is some evidence that the Administration may be seeking to avoid another Supreme Court ruling concerning the federal reclamation laws. On July 3, the United States Supreme Court ruled that, in view of the clear language of Section 8 of the 1902 Reclamation Act and its legislative history, the State of California may impose any condition on the control, appropriation, use or distribution of water in a federal reclamation project that is not inconsistent with clear congressional directives respecting the project. Thus it is now clear that the federal government in acquiring water rights for reclamation projects is required to observe the substance as well as the form of state water rights laws, including compliance with permit conditions developed pursuant to such state laws, so long as such conditions are not inconsistent with clear congressional directives.

Nevertheless, there have been a limited number of federal officials considering substantial additional litigation and possible legislative initiatives in an effort to limit the effect of the Supreme Court decision and to narrow the role of the states with respect to federal reclamation projects. For this reason, the Western States Water Council resolved on July 28 as follows:

"That the Western States Water Council request the President of the United States and the Secretary of the Interior to direct that federal officials (1) cooperate with the states in implementation of the holding in the case of **California v. United States**, (2) ensure that federal reclamation projects operate according to state water rights laws, and (3) recognize the primary role of states in allocation of water resources within their respective jurisdictions."

Two other recent Supreme Court decisions should be mentioned. In a case arising in Nevada, the Court ruled unanimously that private water rights on federal lands are to be governed by state and local law and custom, and that Congress, in writing the Mining Act and subsequent amendments, had not set up a competing, federally controlled system of assigning water rights. In **United States v. New Mexico**, decided on July 3 of this year, the Supreme court determined that the government, in setting the Gila National Forest aside from other public lands, reserved the use of water out of the Rio Mimbres only where necessary to preserve the timber in the forest or to secure favorable conditions of water flows, and hence the United States is not entitled to reserved rights for aesthetic, recreation, wildlife-preservation, and stockwatering purposes. For these latter uses, the Court concluded that the United States must acquire water in the same manner as any other public or private appropriator.

These recent Supreme Court decisions reflect the policy long established by Congress of recognizing state law relative to the appropriation and distribution of water. We are urging the Administration in its efforts to reform water policy to also recognize the primacy of the role of the states in the allocation of water resources.

With respect to the President's proposals concerning water conservation, it should be pointed out that conservation is a tool to be used as any other tool where it increases desired benefits without adversely affecting other important values. Indiscriminate application of conservation practices without adequate analysis of the effects generated, can reduce recharge to groundwater systems, lower water tables, reduce marshy wildlife habitat, and increase energy consumption. Furthermore, since in the West return flows from one user often become the water supply for another user, interrelated water rights have been established in complex hydrologic systems. If, through conservation practices, less water is used by one water user, the impact can be significantly detrimental to other water users. A complete understanding of the hydrologic system is necessary before a meaningful assessment of the beneficial and detrimental effects of the conservation effort can be made.

All of this calls for application of conservation measures on a site-specific basis. Blanket national requirements and federal performance standards are undesirable. Although it is difficult to specifically address the proposals of the President without the benefit of reviewing proposed implementing legislation and rules and regulations for new programs that are yet to be written, indications are that these kinds of national requirements and standards are contemplated as a condition of water supply and wastewater treatment construction grants and loans, housing assistance, contracts for storage or delivery of municipal and industrial water supplies, and the construction and operation of federal buildings and installations. Such national requirements and standards, which ignore physical and hydrological conditions that differ from area to area, would be a poor substitute for site-specific management.

It should also be noted that, since water in the West has always been a scarce resource, doctrines have evolved to prevent wasting it. Thus, mechanisms are available under present state laws to identify wasteful practices and to enforce existing regulations and laws to prevent them. Further, since water rights are administered under state law, the states are the appropriate entities to calculate the effects of such conservation methods as recycling upon other water supplies and uses, and to consider such effects in its efforts to promote conservation. Blanket federal requirements which are insensitive to these considerations could cause serious disruptions in state water rights administrations.

While funds to assist the states in their conservation efforts, as proposed by the President, would be helpful, the states will resist efforts to impose conditions on federal grants for state conservation programs which threaten state prerogatives in managing their water resources. In this regard, the President's proposal to infuse as much as \$25 million into state programs for water conservation has caused some concern among the western states that these kinds of conditions will be prerequisites to obtaining the substantial funds that may be available from the federal government.

With respect to the President's proposal to require renegotiation of water rates in irrigation contracts every five years, it should be pointed out that contracts executed for the repayment of project construction costs cannot now be unilaterally renegotiated by the federal government. Furthermore, current practice already provides for revisions in water rates to take care of increases in maintenance and operation and replacement costs.

The President also proposed increasing grants to the states under Title III of the Water Resources Planning Act. The financial assistance received over the years from the federal government through Title III of the Water Resources Planning Act has greatly assisted the states in developing and maintaining their water resource planning efforts. If the states are to continue to participate with the federal government in comprehensive water and related land use planning, continuing funds will be needed for this purpose. A significant deterrent to the states' use of these federal funds has been the uncertainty with respect to the

amount of funds that will be made available each year as funds have not always been appropriated equal to the amount of the authorization. Consistency in federal funding would be of great assistance to the states. The states have not collectively addressed what would be the appropriate level of funding under a state/federal cooperative water resource planning effort as currently visualized by the President.

Demonstrating the states' commitment to ongoing water resources planning, western states have consistently appropriated from state funds many times the amount of money necessary to match the federal funds offered under Title III of the Water Resource Planning Act. The western states, through the Western States Water Council, have on several occasions expressed unanimous and strong support for the full \$5 million authorized annually under Title III of the Act. However, the substantial increase in funding under Title III for water resources management proposed by the President causes some concern among western states, because of the risk of federal encroachment on state water management functions and the uncertainty of continuing federal funding for planning grants.

The President's recommendations concerning protection of ground-water supplies and maintenance of instream flows stress federal-state cooperation. The western states will be watching carefully to determine if the expressed respect for state laws in dealing with ground-water supply and instream flow issues is evidenced in implementing legislation or rules and regulations. But moreover, it should be pointed out that the President's proposals are based on assumptions which do not generally apply in the western states.

In an Executive Order signed by the President on July 12, to implement the President's recommendations on water policy, ground-water supply problem are said to occur where federally funded surface water projects are proposed for areas that have no effective state or local laws or procedures to control ground-water mining in the same area. While there are some states which apply different laws for surface water and ground water, all western states acknowledge that in many cases surface and ground water sources are hydrologically interconnected and where appropriate should be used as a common source of supply. In some basins, however, little or no appreciable hydrologic interconnection exists. Nevertheless, in these situations the two sources are being conjunctively managed to the extent practicable.

Likewise, the President's Executive Order concluded that instream flow problems can occur where federal or other water programs do not adequately consider the need to leave water in the stream, thereby jeopardizing recreation, water quality, aesthetics, and fish and wildlife habitat. This no doubt refers to criticism evidenced throughout the development of the President's water policy that state water laws fail to provide proper recognition of environmental values.

It should be noted that in some states the geography and public land ownership patterns adequately protect instream values. The states, as well as private enterprise, have appropriated water and developed projects, as provided under state laws, to enhance the environment, fish and wildlife habitat, and recreational opportunities.

Specific state strategies that have developed in one or more states to protect instream values include legislative protection of scenic river, legislative designation of quality streams, statutory and administrative moratorium on new appropriations, legislative assignment of use rights to a state agency, direct reservation of instream flows, statutory criteria to protect instream values, conditions on water use permits, transfers, and exchanges, appropriations by a state agency, appropriations held in trust for other uses, acquisition and reallocation of water rights, statewide water plans, state environmental policy acts, and state fish and wildlife coordination acts. Thus, many strategies are available to the states, and indeed have been employed in many instances by the states, to protect instream values.

With respect to ground-water supply and instream values, federal financial and technical assistance may be helpful, but as with other issues regarding water allocation, the primary responsibility for protection of instream flows and ground-water supply management properly rests with the states. State laws and regulations concerning water allocation are essential for the protection of property rights and the stability of state economies. They are also necessary for the states to meet their responsibility to assist in meeting the social and environmental objectives of their citizens.

It would be poor economics and poor social policy for the federal government to attempt to modify basic institutions for water allocation or seek a blanket solution of any kind. There is no substitute for careful consideration of problems arising from individual situations. State and local officials are clearly in the best position to make decisions on individual situations. By such a procedure, it is possible to balance economic, ecological and state and national interest objectives in the context of a particular problem.

In conclusion, the Western States Water Council looks forward to congressional review of the Administration's proposed national water policy reforms. The Senate's initiative in enacting Senate Resolution 284 was welcomed as an attempt to assure opportunity for non-federal review and participation. Inasmuch as the Administration has announced that it does not intend to introduce legislation this year, we anticipate that there will be time and opportunity to review draft legislation proposed by the Administration. If, during this process, the Western States Water Council could be of assistance to Congressional committees and/or individual members of Congress, we would welcome the opportunity.



ATTACHMENT

FUNDAMENTAL PRINCIPLES FOR A  
NATIONAL WATER POLICY

February 28, 1978

PREAMBLE

The National Governor's Association Subcommittee on Water Management clearly recognizes the need for and supports the development of a comprehensive National Water Policy which truly addresses state water and related resource problems. The President, in his May 1977 environmental message, called for a National Water Policy study which includes greater sensitivity to environmental values in water management and development programs; economic efficiency; water conservation; more equitable allocation of costs among beneficiaries; and better integration of water quantity and water quality objectives and programs.

The Subcommittee concludes that any new National Water Policy should be the result of a cooperative national, not primarily federal, effort: That it should recognize the states' primary role in water management; that the new policy should strengthen the states' capabilities to manage; that the federal government must be more flexible in its response to states; and that management should recognize hydrologic systems. Essential to any national policy on water management is the integration of concerns for water quantity and water quality with the related resources dependent thereon. Any National Water Policy must recognize regional differences in water problems and ensure flexibility and equity in future federal water investments.

State representatives who participated in the National Water Policy review efforts were and are agreed that coherent goals and guidelines to provide a common purpose to the process have not been forthcoming from the federal government. This statement, then, is intended to give that direction.

The nation's water and related resources are increasingly regarded as central to its economic and environmental well being. It should be the goal of a National Water Policy to foster a joint federal/state and local water management program to meet current and future water quantity, development and related resource needs to the extent possible consistent with environmental and economic considerations.

Some of the serious national and regional problems which indicate the scope of issues that need further attention to meet this goal include:

- ★ Public health concerns
- ★ Loss of valuable wetlands
- ★ Resource restoration and management

- ★ Lake eutrophication
- ★ Groundwater depletion
- ★ Escalating annual flood losses
- ★ Antiquated water systems in urban and rural areas
- ★ Water storage facilities
- ★ Federal regulation of water resource structure
- ★ Clarification of state, federal, and native American resource rights
- ★ Contamination by toxic and hazardous materials of surface and ground waters
- ★ Jurisdictional conflict regarding water rights administration and management
- ★ Inadequate water systems

These and similar problems suggest two directions of response. First, states must be equipped to manage their water resources better, and second, water resources policy must be developed in concert with and as an integral part of national economic, environmental, urban, agricultural and energy policies.

**Principle #1: The States Have The Primary Authority And Responsibility For Water Management.**

Primary authority and responsibility for water management function including planning, development, and regulation rest with the states and in some cases their delegated interstate agencies. Water management activities relating to water quality, water supply, groundwater, wetland protection, coastal zone management, and soil conservation should be clearly delineated by Congress as the primary responsibility of the states and their delegated interstate agencies.

Navigation and flood control and other issues at the prerogative of the state should continue to be shared with the federal government to the degree appropriate.

Federal policy must recognize and respect the rights of the states to administer their individual water laws and manage their water resources.

**Principle #2: The Proper Role Of The Federal Government is Threefold:**

- (1) To establish the framework of national objectives and criteria developed in consultation with the states;

- (2) To provide assistance to the states in the development of programs to meet state needs within such framework; and
- (3) To be consistent with such state programs to the maximum extent possible when undertaking direct federal actions pursuant to national interests.

The responsibility of the federal government is to establish in full consultation with states and other appropriate interests national objectives and criteria for the protection, management, restoration, development, and use of water and related resources to meet national economic, environmental, and social objectives and to assist in implementing such policies in federal actions and through assistance and support for state actions.

However, the nature of federal activities in water management involving direct actions by federal agencies, an array of narrow categorical grant programs for specific management purposes, and a similar range of regulatory programs has been a major barrier to comprehensive management and appropriate action at the state, local, or basin level.

The essential steps toward orderly, efficient, and balanced water management are to recognize the primary responsibility of the state and to put each state in the position to develop coherent management strategies in cooperation with local governments, other states, and the federal government.

It is the responsibility of the state to relate national objectives and criteria to its management programs. Federal policy should be directed toward strengthening the capability of the state to act as the integrator and manager of all programs affecting the water resources of the state. To do so effectively, states need:

- ★ Realistic and dependable financial support for states to integrate management activities through expansion of provisions for the state assistance such as a revised Water Resources Planning Act of 1965, or similar legislation;
- ★ Full funding of authorized programs consistent with congressional intent;
- ★ Technical assistance from federal agencies, such as EPA, SCS, USBR, USGS, BLM or the CORPS, possessing extensively developed expertise;
- ★ Additional research assistance, as for example from the water resource research centers established under the Water Resources Act of 1964, or similar legislation; and
- ★ Assurance that direct federal actions will be responsive to national policy, consistent with state programs and priorities and carefully evaluated against mutually agreed upon standards such as principles and standards adopted pursuant to the Water Resources Planning Act, suitably revised.

**Principle #3: Water Management Must Be Approached In A More Comprehensive And Coordinate Manner At Federal, State, Local, and Interstate Levels.**

The federal government should support a management system which provides for defined state and national objectives and criteria in the management of water resources. Such a system should guide resulting state, local, and federal implementation actions, with due regard for efficiency in public investment, environmental quality, equity, and the integrity of hydrologic and related natural systems.

★ **At the federal level**, this means resolution of conflicts or competition among federal programs and coordination of agency activities, through a national coordinating entity reporting directly to the President and with provision for adequate state and public input, such as a strengthened and reconstituted U.S. Water Resources Council.

★ **At the state level**, this means preparation and maintenance of comprehensive statewide water and related resource programs developed within national objectives and criteria established in consultation with the states, appropriately funded, with specific funding support for local and federal participation.

★ **At the interstate level**, where states determine that federal/state collaboration is desirable, institutions such as river basin commissions, interstate compacts, or other mechanisms agreed upon by the participants should be supported.

**Principle #4: Federal Actions Must Be Consistent With Adopted State And Interstate Water And Related Resources Plans And Programs.**

A major frustration among regional, state and local water resource decision makers is the problem of securing consistency of federal projects with state water planning programs. All direct federal actions, grants, and regulations must be shown to be consistent with adopted state and interstate water and related resources plans developed within the framework of the national objectives and criteria. In the absence of such plans, federal actions should be conducted following agreement with the affected states.

**Principle #5: There Must Be Continuity In Federal Support For Water Management Programs.**

Effective scheduling of local and state government appropriations processes and personnel recruitment is made extremely difficult by sharp variations in federal funding levels and by the failure to fully fund authorized programs.

Continuity of federal support is critical in two respects: in relative dependability in funding levels over time; and in the entire sequence of actions from planning through implementation. With continuity in federal support guaranteed, non-federal contributions can be more easily assured.

**Principle #6: There Must Be Greater Flexibility In The Entire Federal Support System For Water Management.**

Source of federal assistance for water planning in general and program management and projects in particular are not adequately responsive to water problems at the state, regional, or national level. Inherent biases toward specific courses of action exist throughout the system and are principally caused by (1) the failure to fund (or fund adequately) specific sections of approved federal legislation; (2) the narrow focus of some categorical grants; (3) the variations in the federal contributions in cost sharing formulas; and (4) authorities which preclude agencies from participation in certain projects and programs. Such biases render the system of federal assistance inflexible, reduce the number of options state and local decision makers can consider, and effectively preclude achievement of the goal of comprehensive planning and management.

To eliminate the inflexibility which has evolved and promote a more flexible system capable of responding to perceived water problems, whether national or regional in scope, the Subcommittee recommends four basic policy changes:

- ★ **First**, broaden the applicability of existing categorical programs, or fully fund underfunded programs, to make them more responsive to state and regional needs;
- ★ **Second**, begin the establishment of a supplemental grant program for water management actions that are needed but do not qualify under existing categorical grant programs or direct federal projects. Guidelines would be designed within broad national objectives developed in consultation with the states;
- ★ **Third**, give equitable treatment to all alternative solutions to water-related problems by upgrading funding assistance for non-structural programs; and
- ★ **Fourth**, establish federal agency authority as needed to participate in and fund a wider variety of water management solutions such as for water supply and water restoration programs.

**Principle #7: Criteria For Planning And Evaluating Federally Assisted Water Projects And Programs Must Be Refined And Applied Uniformly.**

**RESOLUTION**  
of the  
**WESTERN STATES WATER COUNCIL**  
concerning a  
**"STATEMENT OF CURRENT POLICY**  
**AND**  
**ADVANCE NOTICE OF PROPOSED RULEMAKING"**  
Published July 10, 1978 by the  
**ENVIRONMENTAL PROTECTION AGENCY**  
October 25, 1978

WHEREAS, the EPA has published a statement in the Federal Register of July 10, 1978 relative to advance notice of rule making under the Clean Water Act; and

WHEREAS, such statement provides in pertinent part:

"EPA is especially interested in soliciting public comments on the following issues:

••••

(1) Should EPA encourage State adoption of stream flow and quantity allocation prohibitions...? (2) How can EPA do so within the confines of new section 101(g) of the Act?"

WHEREAS, the foregoing gives to the Western States Water Council (WSWC) the opportunity to clearly state its views as concerns the authority of EPA and the U.S. Corps of Engineers under the Clean Water Act to in any way interfere with traditional state authority to allocate quantities of water within each state's jurisdiction; and

WHEREAS, it is the position of the WSWC that, in light of the wording of Section 101(g) of the Clean Water Act, neither EPA nor the U.S. Corps of Engineers may, in any way, directly or indirectly, or for any reason, supersede, abrogate, or otherwise impair the authority of each state to allocate quantities of water within its jurisdiction, and, further, that nothing in the Clean Water Act may be in anywise construed to give EPA or the U.S. Corps of Engineers any authority whatsoever to supersede or abrogate rights to quantities of water which have been established by any state; and

WHEREAS, in its advance notice of proposed rulemaking, EPA states that it "may therefore develop a policy to urge states to prohibit alteration or restriction of natural flows that would interfere with fishable, swimmable water quality," which statement contravenes and is totally inconsistent with the provisions of Section 510 of the Clean Water Act that, "nothing in this Act shall. . . be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to waters (including boundary waters) of such States."

NOW THEREFORE BE IT RESOLVED by the WSWC that, as concerns EPA's proposed rulemaking above referred to and for all other related issues which may have heretofore or may hereafter arise, it is the position of the WSWC that neither the EPA nor the U.S. Corps of Engineers may "encourage State adoption of stream flow and quantity allocation prohibitions," if such encouragement or other action by such federal agencies denotes an assumption of authority by them which is in any way inconsistent with the plain language of Sections 101(g) and 510 of the Clean Water Act referred to above.

- ★ Where urgent action is called for and non-federal participants cannot provide their "front end" share in timely fashion, there should be provision for federal financing beyond the ultimate federal cost-sharing level, with subsequent cost recovery;
- ★ Cost recovery policies should promote conservation and equity. Project costs should be recovered from identifiable beneficiaries whenever possible through systems such as user charges, advalorem taxation, and sale of vendible products, with due regard to benefits derived and for administrative practicality and financial constraints on direct beneficiaries and communities.

**Principle #9: Water Conservation Must Be The Fundamental Consideration In Water Management Programs.**

A national water conservation initiative reflecting regional variations as defined below must be the cornerstone of National Water Policy. Water conservation involves: (1) day-to-day uses; (2) resource allocation including conjunctive uses; (3) drought response; and (4) effective use of seasonal water including storage where applicable. The issue is both economic and environmental. The economics and environmental impacts of water conservation vary by region and are often site specific. National policy must be flexible enough to accommodate these differences. Accordingly, the Subcommittee recommends:

- ★ A national water conservation initiative implemented by the states as part of their total water management programs with federal financial and technical assistance including a component for evaluation of the true benefits and costs of conservation.
- ★ Encouraging comprehensive management of intermittently available fresh water resources to maximize the availability of surface and groundwater supplies;
- ★ Requiring consideration of maximum water conservation contributions in project and program planning and evaluation criteria, such as the P & S, for all water programs and projects;
- ★ Examining closely the incentives and disincentives for encouraging recycling and reuse of water, with due consideration for public health.
- ★ Examining and promoting where feasible the practice of conjunctive use of water supplies--i.e., use surface water supplies during high stream flows thereby conserving groundwater supplies, and use groundwater supplies during low streamflows.

**Principle #10: Federally Supported Water Research Should Be Expanded, Coordinated, And Tied Closely To The Planning And Management Concerns Of The States.**

The federal government currently supports a wide variety of water research programs, both through the individual federal water agencies and through the state water resources research centers created under the Water Resources Research Act of 1964 and coordinated by the Office of Water Research and Technology in the Department of the Interior. Through these vehicles, important research has been conducted in all phases of water management. However, little coordination exists among these programs and no effective mechanism exists which can focus the water research establishment on the planning and management concerns of the nation's principal water managers--the States. The Subcommittee recommends that:

- ★ **At the federal level**, provide coordination among the many mission-oriented federal agency research programs by, for example, tying them and the Office of Water Research and Technology more closely to a national coordinating entity such as a reconstituted and strengthened U.S. Water Resources Council.
- ★ **At the state and regional level**, require that the research agendas of both the federal agencies and the federally-supported water research centers be developed in conjunction with the expressed management needs of the states; and
- ★ Provide substantially increased support, perhaps through amendment to the Water Resources Research Act, for research programs in support of state needs, and increased support for programs of technology transfer and public information by the water centers to increase the value of their work.

**Principle #11: Any Claims To Federal Reserved Water Rights Including Those For Indians Must Be Initially Addressed Within The Framework Of Established State Systems.**

To insure that there is equity and that procedures are prompt and orderly, the processes for the identification and quantification of federal reserved water rights, including those made on behalf of Indians, should be streamlined and accelerated in cooperation with the states, with original jurisdiction in state courts subject to normal appeal. The subsequent administration of such rights should be within state systems.

The Subcommittee recommends that:

- ★ Any federal claims to water asserted under the reservation doctrine or other theory of paramount right including those made on behalf of Indians should include a specific recital of the purpose, location, extent and priority data of every water right claimed, and should relate such claims to the effectuation of the original purpose of the reservation.
- ★ Federal legislation is needed to provide full compensation to the owners of water rights vested under state law, if (1) those rights are later taken by the United States or Indian tribes or (2) the exercise of those rights is precluded by actions of the United States.



A special effort should be made to review and revise the Principles and Standards to better recognize, quantify and display the environmental and social and regional implications of federal water programs and projects. The general intent of the P & S should apply to all federally assisted as well as direct federal water and related resource programs.

- ★ The public participation requirements of project planning and evaluation criteria should be aggressively carried out.
- ★ Projects should be selected using a system which includes cost/benefit analyses, cost effectiveness analyses, and economic, environmental and social analyses.
- ★ The application of appropriately revised principles & standards to water quality programs is an example of effective and equitable assessment of such programs; subsequently, projects which are part of such programs would be evaluated by cost-effectiveness.
- ★ Steps must be taken to ensure that evaluations of all federal water programs and projects are conducted and reported uniformly to the maximum extent possible; and
- ★ The present method of establishing the discount rate for federal projects --based on the cost of federal borrowing-- appears to be the most appropriate. Discount rates should be uniform and relatively stable.

**Principle #8: Federal Project Financing, Cost Sharing, And Cost Recovery Policies Should Be Reviewed And Simplified To Eliminate Inequities And Inherent Biases Toward Specific Solutions To Water Problems And Promote Equal Consideration of Structural And Non-Structural Solutions.**

Existing federal policies present a bewildering array of financing, cost-sharing, and cost recovery options for direct federal and federally-assisted water projects and programs. Inequities exist among those who pay for and those who benefit from such projects and programs. Moreover, many existing programs create inherent financial biases which favor certain solutions to water problems over others, sometimes resulting in the approval of projects of only marginal utility. Accordingly, the subcommittee urges that:

- ★ Cost-Sharing policies should be consistent among alternative means for achieving the same purpose. This means uniformity among cost-sharing policies for both structural and non-structural alternative solutions to a problem under existing agency authorities and broadening some agency authorities to permit consideration of more alternatives;
- ★ Cost-Sharing policies should be consistent among federal agencies for the same purpose. There should be no financial bias making one agency's program more attractive than another on financial grounds, forcing non-federal participants to "shop around" for the best deal;

**RESOLUTION**  
of the  
**WESTERN STATES WATER COUNCIL**  
regarding  
**AMENDMENT OF THE FEDERAL RECLAMATION LAW**  
October 25, 1978

WHEREAS, the 160-acre limitation on water deliveries from federal reclamation projects was adopted in 1902 in light of the then existing agricultural economy and as a means of encouraging the establishment of family-size farms on undeveloped public lands of that time without allowance for changes in farm technology and economics; and

WHEREAS, there is need for expansion of the size of farm units that may receive water deliveries from federal reclamation projects under conditions relevant and appropriate to each respective area of the nation in order that such units may be operated efficiently and maintain a competitive position in the agricultural economy of the United States; and

WHEREAS, it is in the public interest that water deliveries from federal reclamation projects to lands in excess of an updated acreage limitation be permitted to be made so long as there is paid to the United States, with interest, the allocated share of the construction costs involved in furnishing water to such excess acreage, and

WHEREAS, since the Omnibus Adjustment Act of 1926, the residency requirements of the 1902 Act have not been deemed to be applicable by the administering agencies, nor have they since such time been enforced, and to now apply such residency requirements would pose serious restrictions on the efficiency of individual farm operations.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council support the principles set forth in the legislation drafted and sponsored by the Farm/Water Alliance and introduced in the 95th session of Congress as S. 2818.

**RESOLUTION**  
of the  
**WESTERN STATES WATER COUNCIL**  
concerning  
**ISSUANCE PERMITS UNDER SECTION 404**  
of the  
**CLEAN WATER ACT**  
and  
**SECTION 10 OF THE RIVERS AND HARBORS ACT OF 1899**  
October 25, 1978

WHEREAS, the U.S. Fish and Wildlife Service and the National Marine Fisheries have objected to the issuance of Section 10 permits of the 1899 Rivers and Harbors Act and Section 404 under the Clean Water Act on the basis that facilities permitted therein will divert water.

WHEREAS, the U.S. Fish and Wildlife Service has requested a moratorium on the issuance of Section 10 and Section 404 permits to water withdrawal facilities on the Snake and Columbia River systems and both the National Marine Fisheries and the Fish and Wildlife Service have utilized Section 404 and Section 10 to oppose or delay urgently needed water appropriation projects in other areas of the Western States.

WHEREAS, Section 101(g) of the Clean Water Act of 1977 states in pertinent part, "It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. . . ."

WHEREAS, Section 510 of the Clean Water Act provides that, "Nothing in the Act shall . . . be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States."

WHEREAS, the Western States have enacted laws and state plans providing for the protection of instream resources and have water appropriation procedures providing for consideration of instream resource needs.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council finds the position of the Fish and Wildlife Service and the National Marine Fisheries as above stated contrary to the expressed policies of the Clean Water Act of 1977, an intrusion into a recognized state responsibility, and inconsistent with the federal water policies announced by President Carter to not interfere with the water right systems of the western states, and;

BE IT FURTHER RESOLVED that the Western States Water Council encourages the U.S. Fish and Wildlife Service and the National Marine Fisheries to avail themselves of state laws and procedures in representing their interest in the protection of instream resources.

**RESOLUTION**  
of the  
**WESTERN STATES WATER COUNCIL**  
concerning  
**GRANTS UNDER SECTION 208**  
of the  
**CLEAN WATER ACT**  
October 25, 1978

WHEREAS, EPA's 208 grants provide a major source of water quality management planning funds in the West,

WHEREAS, the development of comprehensive, consistent, water quality management plans under the Clean Water Act is the ultimate responsibility of the States,

WHEREAS, the 12 states comprising the Western States Water Council unanimously believe that the most effective way to utilize 208 planning grants is through a State/Federal agreement negotiated between the State and the EPA Region which identifies water quality problems, priorities, and funding requirements for the State's priority water problems,

WHEREAS, the involvement of local agencies in the preparation of such an agreement is important,

NOW THEREFORE BE IT RESOLVED, that EPA 208 planning grants be allocated to the States which have identified the priority water quality planning projects and funding requirements through a State/Federal agreement, and

BE IT FURTHER RESOLVED, that State 208 planning grants include funding for designated planning agency grants, which will be transmitted from the State to the designated planning agencies in accordance with the State/Federal agreement, and

BE IT FURTHER RESOLVED, that the States be allowed to use local planning entities to the extent indicated in the State/Federal agreement for accomplishing the priority planning projects of the State.

## BUDGET AND FINANCE

The WESTERN STATES WATER COUNCIL budget was presented at the April 28, 1978 quarterly meeting held in Salt Lake City, Utah by Secretary-Treasurer Daniel F. Lawrence. Mr. Lawrence reported that, due to the activities created by the 1977 drought, the Council expenditures at the end of June 1978 would be approximately \$199,600. This figure represents approximately \$25,000 more than the figure estimated in April 1977. The additional expenses were drought related and were eased by the assessments to the states other than the WESTERN STATES WATER COUNCIL states who benefited from this effort resulting in there being \$8,000 more in the fund balance than was anticipated a year ago. As of March 30, 1978, there was \$8,000 cash on hand and \$140,000 in Time Certificates.

The Executive Committee on April 27, 1978, approved a budget for the next fiscal year of \$181,950. The States' assessments for the fiscal year 1978-79 remained at \$13,000 per state as determined in April 1977.

The firm of Hansen, Barnett and Maxwell, Certified Public Accountants, 345 East Broadway, Salt Lake City, Utah served as auditors of the Council's finances and accounting. The audit showed the Council's accounts, in every respect, to be proper and correct. The statement of revenues, expenditures and fund balance for the fiscal year ended June 30, 1978, as identified in the auditor's report, appears on the following page.

WESTERN STATES WATER COUNCIL

GENERAL FUND

Statement of Revenue and Expenditures and Fund Balance  
For the Year Ended June 30, 1978

	Budget Note D	Actual	Actual Over- (Under) Budget	Actual Prior Year
<b>Revenues</b>				
Member States' assessments	\$143,000	\$143,000	\$ -	\$143,000
Drought assessments	-	19,656	19,656	5,616
Interest income	-	10,400	10,400	9,435
Other	-	-	-	240
<b>Total Revenues</b>	<b>\$143,000</b>	<b>\$173,056</b>	<b>\$ 30,056</b>	<b>\$158,291</b>
<b>Expenses</b>				
Salaries	91,400	87,340	(4,060)	76,311
Travel	26,500	27,277	777	14,389
Contract services	27,000	24,213	(2,787)	7,543
Payroll taxes and employee benefits	10,650	15,191	4,541	8,736
Printing and reproduction	13,000	14,711	1,711	12,516
Rent	10,000	9,322	(678)	8,470
Freight and postage	4,600	4,951	351	3,500
Telephone	5,600	4,794	(806)	6,164
Furniture and equipment	2,200	2,856	656	1,247
Office supplies	3,000	2,810	(190)	2,234
Reports and publications	1,900	1,695	(205)	1,389
Meetings and arrangements	1,250	1,127	(123)	1,137
Accounting	800	795	(5)	680
Insurance	700	632	(68)	396
Contingencies	1,000	575	(425)	2,406
Other	-	-	-	618
<b>Total Expenditures</b>	<b>\$199,600</b>	<b>\$198,289</b>	<b>\$ (1,311)</b>	<b>\$147,736</b>
<b>Excess (Deficiency) of Revenues</b>				
Over Expenditures	(56,600)	(25,233)	31,367	10,555
Fund Balance - Beginning of Year	141,394	141,394	-	130,839
Fund Balance - End of Year	<u>\$ 84,794</u>	<u>\$116,161</u>	<u>\$ 31,367</u>	<u>\$141,394</u>

## COMMITTEE AND SUBCOMMITTEE MEMBERSHIP DURING 1978

### Executive Committee

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

### Legal Committee

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

### Management Subcommittee

Donald L. Paff  
Chris L. Wheeler  
George Christopoulos  
Daniel F. Lawrence  
Jack A. Barnett

### Water Resources Planning Act Subcommittee

Jack Acord - Chairman  
Dan Lawrence  
Wesley Steiner

### Water Resources Committee

John E. Acord - Chairman  
Wesley E. Steiner  
Senator Ruben Ayala  
C.J. Kuiper  
George L. Yost  
Donald L. Paff  
Odis L. Echols  
Chris L. Wheeler  
A.L. Black  
Daniel F. Lawrence  
Willbur G. Hallauer  
Myron Goodson

### Water Quality Committee

W. Don Maughan - Chairman to 7-78  
John Spencer - Chairman  
Robert E. Lundquist  
Harris D. Sherman  
Herman McDevitt  
Donald G. Willems  
Hal Smith  
S.E. Reynolds  
Chris L. Wheeler  
Charles Nemir  
Thorpe A. Waddingham  
George Christopoulos

### Nominating Subcommittee

Dave Hale - Chairman  
Ron Robie  
Jack Acord

### Dam Safety Subcommittee

Steve Allred - Chairman  
George Christopoulos  
Dee Hansen  
Wesley Steiner  
Chris Wheeler  
Roland Westergard

### **Subcommittee on Water Quality/Water Rights Conflicts**

#### **Legal Committee Members**

Henry Loble - Chairman  
Charlie Roe  
Dave Robbins  
Jack Palma  
Tom Choules

#### **Water Quality Committee Members**

John Spencer  
George Christopoulos  
Don Willems  
Don Maughan

### **Subcommittee on 160-Acre Limitation**

#### **Legal Committee Members**

Ray Rigby  
Tom Choules  
George Proctor

#### **Water Resources Committee Members**

Arizona - Chairman  
California  
Idaho  
Colorado  
Montana

### **Reorganization Subcommittee**

Ronald Robie - Chairman  
Don Maughan - Alternate Chairman  
Myron Goodson  
Harry Pugsley  
Wesley Steiner  
Chris Wheeler  
Jack Barnett

### **Reserved Rights Subcommittee**

Charlie Roe - Chairman  
Tom Choules  
Henry Loble  
Harry Pugsley  
Roland Westergard  
David Robbins  
Jack Palma  
George Proctor  
Richard Simms



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

**STAFF**

Jack A. Barnett . . . . . Executive Director  
D. Craig Bell . . . . . Assistant Director  
Pearl O. Pollick . . . . . Office Manager  
Fae O. Drake . . . . . Report Secretary  
Virginia W. Jensen . . . . . Legal Secretary  
V. Clark Ogden . . . . . Drought Coordinator  
4-77 to 4-78  
Deonna Micheletti . . . . . Clerk  
7-77 to 4-78

## EXECUTIVE COMMITTEE CHARTER

This charter of the Executive Committee of the Western States Water Council was adopted by resolution on January 29, 1970, at the meeting of the Council in Seattle, Washington. It is the administrative and steering committee of the Council on matters outlined in this Charter and such other matters as may be related thereto.

### Objective

The committee shall assist the Council in carrying out effective cooperation among western states in planning for programs leading to integrated development of water resources by state, federal, and other agencies; by acting as a steering committee; by making sure there is consistency and no overlap of Council liaison with national organizations, including the National Water Commission, Water Resources Council, federal departments, National Water Resources Association, Council of State Governments; and by establishing and maintaining liaison with western organizations such as the Western Governors' Conference and the Interstate Conference on Water Problems.

### Authority

The authority of the Executive Committee derives from the Council itself and includes the following powers: (1) To act upon internal and administrative matters between meetings of the Council; (2) To create working groups and ad hoc groups; (3) To make assignments to committees; (4) To receive committee reports; and (5) To implement actions and programs approved by the Council.

### Program

The committee shall have the obligation to prepare Council meeting agenda and shall correlate Council's liaison with national and regional agencies, and correlate the Council's efforts to keep abreast of broad-scale developments by those agencies as they relate to Council programs. The committee will initiate recommendations for Council actions at conferences, hearings, and special meetings with national water leaders. The committee shall make assignments to other committees and give directions as to the scope and nature of their activities. The committee will have authority to require that the committees submit their reports and/or recommendations to it, and it will submit its views on said reports and/or recommendations to the Council.

### Organization and Voting

The Executive Committee of the Western States Water Council consists of one representative from each member state in accordance with Article IX - Executive Committee - of the "Rules of Organization." The Chairman and Vice Chairman of the Council shall represent their states on and be members of the Executive Committee and serve as officers of the Executive Committee. The Council staff furnishes necessary assistance as desired and requested by the Executive Committee.

Each member of the Executive Committee shall have one vote in conducting business. A quorum consists of six (6) members, and a simple majority of those voting shall prevail on internal matters. If an external matter comes before the Executive Committee between Council meetings, and the Executive Committee finds an emergency exists, it may take final action by unanimous vote of all members.

### Meetings

Regular meetings of the Executive Committee shall be held at least thirty (30) days prior to each Council meeting and also in conjunction with meetings of the Council. Special meetings of the Executive Committee may be called by the Chairman, or by the Vice-Chairman in the event the Chairman is incapacitated, or by any six (6) members, upon five-days' notice to all members, stating the time and place of the meeting. When all members are present, no notice is required. All meetings may be adjourned to a time certain by majority vote of those present.

### Reporting

The Committee shall report to the Council at each Council meeting as to any actions it may have taken between meetings.

## **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, conservation, 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 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.

## 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, Texas, Utah, Washington, and Wyoming appointed by and serving at the pleasure of the respective Governors. The states of Alaska and Hawaii shall be added to membership if their respective Governors so request.
- (2) Member states may name alternate representatives for any meeting.
- (3) Any state may withdraw from membership upon written notice by its Governor.

##### Article VI - Ex-Officio Members

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

##### Article VII - Officers

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

### **Article VIII - Selection of Officers**

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

### **Article IX - Executive Committee**

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

### **Article X - Voting**

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

### **Article XI - Conduct of Meetings**

Except as otherwise provided herein, meetings shall be conducted under Robert's 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 is 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  $\frac{2}{3}$  of the member states.

### **Article XII - Meetings**

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

### **Article XIII - Limitations**

The work of the Council shall in no way defer or delay authorization or construction of any projects now before Congress for either authorization or appropriation.

### **Article XIV - Amendment**

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



## PRINCIPLES - STANDARDS - GUIDELINES

### PREAMBLE

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

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

### 1.0 PRINCIPLES

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

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

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

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

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

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

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

1.1.7 It is imperative that all States, as expeditiously as possible, make thorough studies of their water 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 Section 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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## NOTES

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