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RESOLUTION

WESTERN STATES WATER COUNCIL
1982



1982
ANNUAL REPORT

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1982
ANNUAL REPORT
OF THE
WESTERN STATES
WATER COUNCIL

Seventeenth Annual Report

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1982
WESTERN STATES WATER COUNCIL
MEMBERSHIP

ARIZONA



*Governor Bruce E. Babbitt
4-78

**Wesley E. Steiner
2-69

Tom Choules
4-70

Robert E. Lundquist
10-78

Larry Deason (Alt.)
3-78

CALIFORNIA



*Governor
Edmund G. Brown, Jr.
1-75

**Ronald B. Robie
7-75

Senator Ruben Ayala
2-78

Robert W. Miller (Alt.)
5-79

William R. Attwater (Alt.)
7-79

COLORADO



*Governor Richard D. Lamm
1-75

**D. Monte Pascoe
4-80

J. William McDonald
10-79

Gary Broetzman
9-80

Jeris Danielson (Alt.)
4-80

Dennis Montgomery (Alt.)
4-80

IDAHO



*Governor John V. Evans
1-77

**Herman J. McDevitt
4-72

Ray Rigby
2-73

Steve Allred
7-73

Cy Young (Alt.)
2-73

A. Kenneth Dunn (Alt.)
5-77

MONTANA



*Governor Ted Schwinden
1-81

**John E. Acord
1-72

Donald G. Willems
2-76

Henry Loble
6-76

Leo Berry, Jr. (Alt.)
1-81

NEVADA



*Governor Robert List
1-79

**Roland D. Westergard
5-68

Hal Smith
8-70

Duane R. Sudweeks
8-79

C. Clifton Young (Alt.)
7-68

D. Brian McKay (Alt.)
4-79

NEW MEXICO



*Governor Bruce King
1-79

**S. E. Reynolds
6-65

George Hannett
8-73 — 10-82

Odis L. Echols
11-75

Richard Simms
10-82

OREGON



*Governor Victor Atiyeh
1-79

**James E. Sexson
3-79

George Proctor
3-79

William H. Young
3-79

Pat Amedeo (Alt.)
3-79

TEXAS



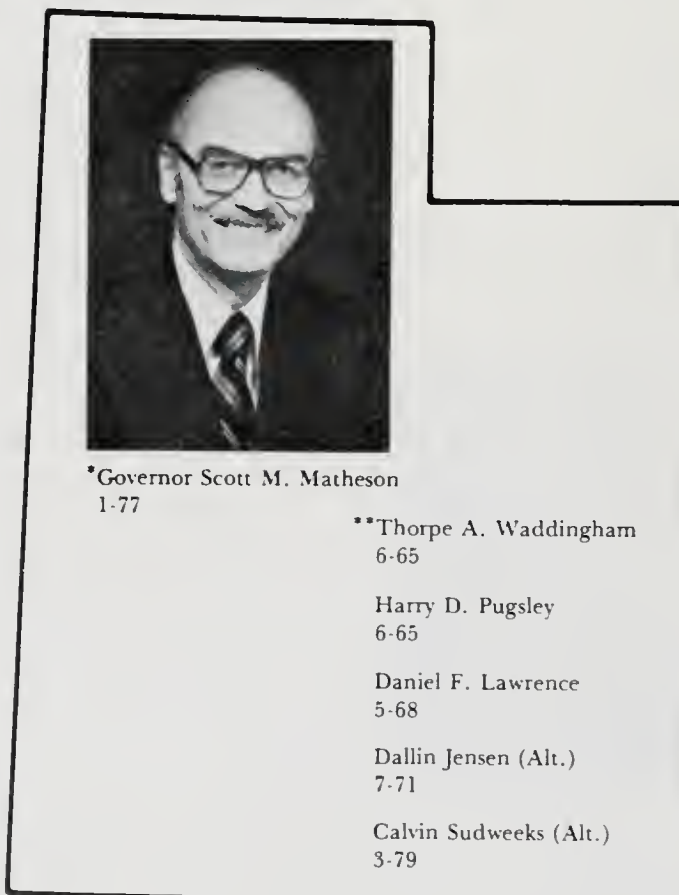
**Bill Clayton
10-78

Charles E. Nemir
10-78

A. L. Black
10-78

*Governor William P. Clements, Jr.
1-79

UTAH



*Governor Scott M. Matheson
1-77

**Thorpe A. Waddingham
6-65


Harry D. Pugsley
6-65

Daniel F. Lawrence
5-68

Dallin Jensen (Alt.)
7-71

Calvin Sudweeks (Alt.)
3-79

WASHINGTON



***Governor John Spellman**
1-81

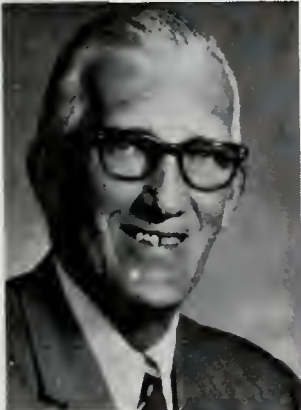
****Donald W. Moos**
4-81

Charles B. Roe, Jr.
4-70

John Spencer
10-77

Wilbur G. Hallauer
4-77 (Alt.)

WYOMING



***Governor Ed Herschler**
1-75

****George L. Christopulos**
4-75

Myron Goodson
6-65

Willard C. Rhoads
3-67

*Governor Member
**Executive Committee Member

OFFICERS

CHAIRMAN

Ray W. Rigby
7-82

Charles E. Nemir
7-81 to 7-82

VICE-CHAIRMAN

John Spencer
7-82

Ray W. Rigby
7-81 to 7-82

SECRETARY-TREASURER

Roland D. Westergard
7-80



Left to Right: Ray Rigby, Roland Westergard, Charles Nemir, John Spencer

Members & Guests in Attendance at the
McAllen, Texas meeting, January 14, 1983



Seated: John Spencer, Roland Westergard, Ray Rigby, Charles Nemir, Cal Sudweeks, George Proctor, Bill McDonald
2nd Row: Dan Lawrence, Myron Goodson, Charles Roe, Richard Simms, Norman Johnson, Jack Acord, David Kelley, John Fraser
Willard Rhoads, Pearl Pollick, Joyce Sanchez
3rd Row: Richard Smith, Craig Bell, Bruce Keubler, Tony Willardson, A.L. Black, Glen Fiedler, Duane Sudweeks, Ken Dunn,
Wesley Steiner, Tom Choules
Back Row: Stanley Barnes, Jeris Danielson, David Ladd

The following men have led the Western States Water Council as officers since its inception in 1965:

As Chairman:

Freeman Holmer - Oregon
Raphael J. Moses - Colorado
William S. Holden - Idaho
William R. Gianelli - California
William A. Groff - Montana
Wesley E. Steiner - Arizona
Chris L. Wheeler - Oregon
Donald L. Paff - Nevada
George Christopoulos - Wyoming
Daniel F. Lawrence - Utah
Charles Nemir - Texas
Ray W. Rigby - Idaho

As Vice-Chairman:

Raphael J. Moses - Colorado
William S. Holden - Idaho
William R. Gianelli - California
William A. Groff - Montana
Wesley E. Steiner - Arizona
Chris L. Wheeler - Oregon
Donald L. Paff - Nevada
George Christopoulos - Wyoming
Daniel F. Lawrence - Utah
Charles Nemir - Texas
Ray W. Rigby - Idaho
John Spencer - Washington

As Secretary-Treasurer:

Donel J. Lane - Oregon
Floyd A. Bishop - Wyoming
Daniel F. Lawrence - Utah
Charles Nemir - Texas
Roland D. Westergard - Nevada

The following have served as Executive Director:

- Wright Hiatt
- Jay R. Bingham
- Thomas E. Cahill
- Jack A. Barnett
- D. Craig Bell

Council headquarters are located at:

220 South 2nd East, Suite 200
 Chancellor Building
 Salt Lake City, Utah 84111
 (801) 521-2800

STAFF

- D. Craig Bell Executive Director
- Richard A. Smith Staff Engineer
- Anthony G. Willardson Research Analyst
- Norman K. Johnson Legal Counsel
- Pearl Pollick Office Manager
- Joyce Sanchez Report Secretary
- Marjorie Farmer Secretary



Left to Right: Craig Bell, Norman Johnson, Pearl Pollick, Joyce Sanchez, Richard Smith,
 Tony Willardson

1982 ANNUAL REPORT

of the

WESTERN STATES WATER COUNCIL

The Western States Water Council was created in June 1965 by Governors meeting at a Western Governor's Conference. The stated purpose of the Council was to accomplish effective cooperation among the participating states in planning for programs leading to integrated development by state, federal and other agencies of their water resources. For 13 years, the Western States Water Council consisted of eleven western states. The State of Texas petitioned for membership and in 1978 was admitted, bringing Council membership to include: ARIZONA, CALIFORNIA, COLORADO, IDAHO, MONTANA, NEVADA, NEW MEXICO, OREGON, TEXAS, UTAH, WASHINGTON and WYOMING. Each member Governor serves on the Council as an ex-officio member. Each member Governor also has the opportunity of appointing three representatives from his state and as many alternates as he deems necessary to serve on the Council at his pleasure. State representatives are appointed to working committees, with one representative per state also appointed to the Executive Committee concerned with housekeeping duties. The working committees are the Legal Committee, the Water Quality Committee and the Water Resources Committee, each concerned with issues as their committee names imply. Each working committee is directed by a committee chairman and vice-chairman. Committee chairmen, in turn, name special subcommittees to study particular areas of concern. In this regard, a subcommittee chairman is designated to guide the action.

Headquarters of the Western States Water Council are in Salt Lake City, Utah. The staff is headed by D. Craig Bell, Executive Director. Working with Mr. Bell are Richard A. Smith, Staff Engineer, Tony Willardson, Research Analyst; Norman K. Johnson, Legal Counsel, and a secretarial staff of three.

Positions taken and resolutions passed at the quarterly meetings of the council appear in this report. Meetings are held on a rotation basis in the member states with state representatives acting as hosts to the Council members and their guest speakers. Meetings were held in 1982 in the following places: Monterey, California—January 14 - 15; Las Vegas, Nevada—April 15 - 16; Wenatchee, Washington—July 15 - 16; and Denver, Colorado—October 14 - 15.

Guests are welcome at the quarterly meetings of the Western States Water Council. Information on meeting location and agenda items can be obtained by writing or calling Council headquarters. Guest speakers are scheduled according to the relevant subjects to be considered at each quarterly meeting.

Carol E. Dinkins, Assistant Attorney General, Land and Natural Resources Division, Department of Justice was the special guest speaker at the January, Monterey, California meeting. She spoke on pending litigation regarding water problems. She asked Council members for their input to help the Justice Department make its decisions relative to these cases. Also at the meeting the Council heard from David G. Houston, Special Assistant to the Commissioner Bureau of Reclamation, U.S. Department of Interior. Mr. Houston reviewed 1981 Interior Department activities which had an impact on western water resources. He also informed Council members of the cutbacks at the federal level and the

budget requests the Bureau of Reclamation has submitted for 1982. Ron Robie, California Council member, narrated a slide presentation prepared by the California Department of Water Resources regarding Agricultural Water Conservation in California.

William R. Gianelli, Assistant Secretary for Army (Civil Works) was the Council's guest at the April, Las Vegas, Nevada meeting. He talked about water resources development from the Washington perspective. As a former Chairman of the Council Mr. Gianelli stated that he was familiar with the workings of the Council and the impact it can have on the Administration. He talked about his hopes that the Department of Army can work with both federal and non-federal interests to review water project construction starts utilizing alternative financing methods. He gave his opinions on cost sharing, cost recovery, up-front financing, the 404 program, and the Administration's new principles and guidelines for water resources development projects. Another guest from Washington, D.C. at the April meetings was Carole Christiano, Professional Staff Member, Subcommittee on Water Resources, Senate Environment & Public Works Committee. Her remarks dealt with the congressional political process. Her advice was to: 1) determine what public policy should be; 2) adjust the policy to political realities; 3) approach the policy from the viewpoint of the average state; and 4) put the policy in the form of a proposal and submit it to the Congress.

Commissioner Robert Broadbent of the Bureau of Reclamation gave an update on Bureau activities. Mr. Broadbent stated that although the Bureau of Reclamation participates in developing policy on cost sharing or the Principles and Guidelines, it does not have "lead agency" authority over such issues. He suggested to the Council members that their comments were very important on these issues and encouraged submission of comments. The final speaker was John W. Arlidge of the Nevada Power Co. who gave an overview of the Harry Allen Power Plant.

The meeting in Wenatchee, Washington in July was highlighted by a trip to Grand Coulee Dam sponsored by the Washington Council members. Also at the meeting the Council had as guest members of the Water Policy Committee of the Western Legislators Conference. Frederick A. Eidsness, Jr., Assistant Administrator for Water, United States Environmental Protection Agency was the guest speaker. He spoke on regulatory reform and EPA's role in implementing that concept.

Lawrence Jensen, Associate Solicitor for the Department of Interior, gave a report on Indian Water Rights at the October meeting held in Denver, Colorado. He said there are about 50 pending cases involving disputes over Indian water rights in the western United States. He discussed some of these cases. Robert Broadbent, Bureau of Reclamation Commissioner also attended and gave an update on reclamation reform. J. William McDonald, Council member from Colorado, and Director of the Colorado Water Conservation Board, gave a report on **Water Resources in Colorado**.

Positions taken and resolutions passed by the WESTERN STATES WATER COUNCIL during 1982 follow:

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
WATER INSURANCE FUND
Monterey, California
January 15, 1982

WHEREAS, the need for alternative financing mechanisms to fund the irrigation component of water projects is demonstrated by the enormous backlog of authorized projects; and

WHEREAS, local water user entities could sell bonds to raise private funds at an interest rate of ½% to 1% less than would otherwise be the case if such bonds were insured by the United States on a self-sustaining basis; and

WHEREAS, providing local water user entities such an alternative financing mechanism would enable existing projects to be expeditiously completed, provide for necessary rehabilitation, and avoid delay in development of multiple use projects because of the need to finance the irrigation components; and

WHEREAS, such an approach is within the present Administration's policy that financing should be borne by beneficiaries and users; and

WHEREAS, the obligation of the United States in guaranteeing payment in case of default would be minimal since (1) defaults in payments on irrigation water use entities occur rarely, if at all, and (2) such a guarantee could be backed by a lien on the revenues from the projects insured by the United States; and

WHEREAS, legislation has been introduced in Congress (HR 4380) to accomplish the above purposes.

NOW THEREFORE BE IT RESOLVED by the Western States Water Council to support legislation to (1) establish a water project insurance fund in order to assist water authorities finance the construction of reclamation, irrigation, and other water related projects, and (2) authorize the Secretary of Interior to administer such fund.

BE IT FURTHER RESOLVED, that any such legislation should initially be funded from general appropriations which would be repaid to the federal treasury, but that in the event monies from the Reclamation Fund are required, such money should only be required to the extent necessary to guarantee bonds for the construction, maintenance, and rehabilitation of irrigation works for the reclamation of arid lands.

BE IT FURTHER RESOLVED, that any legislation should provide for a board of review under the authority of the Secretary of Interior to review project applications, and the review board should be made up of state and local government representatives, water users, and other non-federal representatives as well as federal representatives.



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

January 18, 1982

Ms. Georgiana Sheldon, Commissioner
Federal Energy Regulatory Commission
825 North Capitol Street, N.E. - Room 9000
Washington, D.C. 20426

Dear Ms. Sheldon:

The Western States Water Council requests that Federal Energy Regulatory Commission (FERC) regulations be amended to require that all applicants for preliminary permits and licenses for hydropower development present evidence of:

- (1) having filed for necessary water rights pursuant to state laws, or
- (2) the ability to acquire the necessary water rights pursuant to state law of eminent domain or related law.

Experience in our member states has shown that such a regulation is essential. In some cases, applicants for preliminary permits have been unaware that the FERC licensing process ultimately requires compliance with state water law. Other applicants have proceeded with FERC applications in deliberate disregard to state water rights ruling. In other cases, a state agency has granted a water right to one applicant while FERC has granted a preliminary permit to another applicant. These circumstances cause confusion and needless expenditure of time and money by applicants, state agencies, and commission staff. All these problems can be relieved by requiring FERC applicants to file for state water rights before filing with FERC.

While the proposed change in FERC regulations will not resolve all conflicts between state water rights and FERC licensing process, it would be an important first step. Therefore, we urge that such a provision be adopted as soon as practicable.

Thank you for considering our view.

Sincerely yours,

Charles E. Nemir
Chairman

cc: Mr. Kenneth Plumb, Secretary, FERC



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

January 18, 1982

Mr. William R. Gianelli
Assistant Secretary for Civil Works
Department of the Army
Washington, D.C. 20310

Dear Bill:

The Western States Water Council (WSWC) commends you for establishing Corps of Engineers' policy, which provides that it will not set forth what quantities of water can be diverted by an applicant for a 404 permit. This has been a long-held position by the WSWC. It is gratifying to us to see federal policy now being set that is consistent with state and federal law.

The Council has been deeply concerned about the administration of 404 permits. Their use in regulating activities involving water allocation and management of wetland areas has been very troublesome to Council members. Your memorandum of November 18, 1981 will alleviate some of the western states' concerns over 404 permits and water allocations. However, we have not been able to reach a consensus as to whether 404 jurisdiction should extend to wetlands. This, of course, is not as significant to many member states of the WSWC as it is to other states, primarily coastal states. For this reason, we will continue to review 404 permitting activities and offer our assistance in solving problems associated with 404 permits and wetlands protection.

We would appreciate being advised of any actions you plan to take to deal with the definition of wetlands. Many of our member states are very concerned about 404 permit jurisdiction in wetlands, created by irrigation and agricultural activities.

In the last several years, the Corps of Engineers has agreed that the Environmental Protection Agency (EPA) does have some veto authority over Corps issuance of 404 permits. Therefore, while Corps policy is not to interfere in state water allocation decisions, EPA may effectively nullify this by vetoing the issuance of a 404 permit without minimum flows or other water allocation conditions. We would appreciate having your views on this question of EPA authority over issuing 404 permits. If there is a possibility of joining EPA in your policy of November 18, 1981, we would be very pleased to help coordinate such action.

Once again, we extend to you the WSWC gratitude for dealing properly with the relationship between 404 permits and state water allocation decisions. Please feel free to call on us if you should have any questions or concerns about WSWC positions.

Sincerely yours,

Charles E. Nemir
Chairman

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
STATE WATER RIGHT FILINGS BY FEDERAL AGENCIES
Las Vegas, Nevada
April 16, 1982

WHEREAS, Congress has recognized and, traditionally, deferred to the right of the Western States to appropriate and regulate water resources; and

WHEREAS, state water administrative agencies and state courts are unbiased tribunals whose duty is to determine the relative rights of all parties to water resources; and

WHEREAS, state administrative and court systems can function properly only when all potential claimants are involved as parties.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council requests the issuance of the following Executive Order by the President of the United States:

EXECUTIVE ORDER

The President issue an executive order directing all Federal Agencies and employees to:

- 1) File water right claims with state water administrative agencies or state courts for all uses of water being made or proposed by the Federal Government, reserving at the time of filing the right to litigate positions of federal law and/or reserved water rights;*
- 2) File with state agencies or state courts in general adjudications or readily join in such tribunals when the action is initiated by others.*

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
ELIMINATING NPDES PERMITS FOR WATER RELEASES FROM RESERVOIRS
Las Vegas, Nevada
April 16, 1982

WHEREAS, National Wildlife Federation v. Gorsuch decided January 29, 1982, by Judge Joyce Hens Greene, held that certain water quality conditions associated with dams and reservoirs should be dealt with as a "discharge of pollutants" prohibited by Section 301 of the Clean Water Act; and

WHEREAS, the court further held that the Environmental Protection Agency must issue regulations covering dams as a point source category under Section 402 of the Clean Water Act; and

WHEREAS, Judge Greene has rejected EPA's long held position that the National Pollutant Discharge Elimination System does not apply to releases from reservoirs and the court has held that the EPA has violated a nondiscretionary duty in failing to regulate dams with NPDES permits; and

WHEREAS, S.2280 has been introduced to exempt dams from NPDES permit requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE Members of the Western States Water Council that the Clean Water Act be amended as set forth in S.2280 to eliminate the application of NPDES permits to discharges from reservoirs.

POSITION
of the
WESTERN STATES WATER COUNCIL
concerning
PRINCIPLES OF RECLAMATION LAW REFORM
Las Vegas, Nevada
April 16, 1982

WHEREAS, the 1902 Reclamation Act was adopted in light of the then existing agricultural economy; and

WHEREAS, many provisions of the 1902 Law are unrealistic in light of current agricultural conditions.

NOW, THEREFORE, BE IT RESOLVED that Western States Water Council urges Congress to enact appropriate amendments to the 1902 Reclamation Law to provide that:

- 1. There should be a basic ownership entitlement of 1,600 acres eligible to receive project water.*
- 2. Ownership should be increased in excess of the basic entitlement when required to equalize climate or soil conditions or availability or quality of water with Class 1 land.*
- 3. Farmers, including corporations, partnerships, or other legal entities should be allowed to own or lease lands in excess of the basic entitlement provided they are willing to pay for the water for additional lands up to the full cost to the United States, including interest, existing at the time the contract was signed, or when the project was completed, whichever was earlier.*
- 4. Residency should not be a part of reclamation law. Instead, buyers of excess land, having purchased at prices not reflecting project benefits, should not be allowed to profit from a sale of such land for the first ten years after its purchase.*

5. *Lenders should be able to fully finance farmers of reclamation land based on the fair market value of the land.*
6. *All prior written representations, contracts, and exemptions made by and between the United States and contracting entities, farmers and landowners should be honored and validated. These include, but are not limited to, representations that:*
 - a. *They could lease and operate their farms restricted only by the limitation on ownership;*
 - b. *They would be free of acreage limitations when the agreed repayment obligation had been repaid.*
7. *Reclamation law should not apply to Corps of Engineers projects except when specifically made a part of a reclamation project by authorizing statute.*
8. *All acreage limitation should cease at any time upon payment of the agreed repayment obligation of the contracting entity.*
9. *Landowners should be free to operate or have their farms operated without management controls by any government agency.*
10. *Recordable contracts should be for a period of ten years with the right to sell to buyers of the seller's choice at a price which does not reflect the project benefit and be extended for such periods as sales are not processed.*
11. *Contracting entities should have the right to amend their contracts to obtain the benefit of any new law without additional conditions imposed by the Secretary of the Interior.*
12. *The United States should consent to be sued so that contracting entities would be entitled to receive project water as a remedy and not just money damages.*
13. *State owned school trust lands should be exempt.*
14. *Project water should continue to be available to bona fide religious or charitable nonprofit organizations if agricultural proceeds are used directly for charitable purposes.*
15. *Exempt agricultural land which will receive a substitute water supply and will be required by the Secretary to reduce groundwater pumping in equal quantity from aquifers in the project area as a condition of receiving substitute water from a federal reclamation project.*
16. *Project water should be supplied to agricultural land in unusually wet years or from flood flows without application of acreage limitation.*

17. *A method should be adopted on a case-by-case basis, where water user contracts do not provide for commingling, to increase land limitations when water from a federally financed project is commingled with non-project water, so as to continue the provisions of law that reclamation law does not apply to non-project water.*
18. *The 160 acre provision of Public Law 84-984 and Public Law 84-130 should be arithmetically adjusted consistent with any changes in reclamation law redefining the 160 acre limitation.*

POSITION
of the
WESTERN STATES WATER COUNCIL
concerning
AMENDMENT OF THE FEDERAL POWER ACT
Las Vegas, Nevada
April 16, 1982

WHEREAS, needless controversy has been caused by conflicts between the licensing procedures of the Federal Energy Regulatory Commission (FERC) and established principles of Western States water law; and

WHEREAS, FERC has been unwilling to modify its procedures to relieve these conflicts.

NOW, THEREFORE, BE IT RESOLVED by the Western States Water Council that the Federal Power Act (16 U.S.C. 791(a) et seq.) be amended as follows:

1. *Strike from subsection 9(b) the following language "...and to the appropriation, diversion, and use of water for power purposes..." Add the following new subsection after subsection (c):
"(d) Notwithstanding any other provisions of law, the commission is prohibited from issuing an original or new license, amendment to license, or exemption from licensing under this Part, unless the applicant proves acquisition, in accordance with applicable substantive and procedural provisions of state law, of the necessary rights established pursuant to state law to appropriate, divert, and use water for power purposes."*
2. *To Section 21 add the following new sentence:
"The commission is not empowered to authorize a licensee to exercise the right of eminent domain pursuant to this section for the purpose of acquiring water rights."*
3. *In Section 27 designate the existing sentence as subsection (a) and add the following additional subsections:
"(b) Nothing in this Part shall be construed as conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to appropriate, divert, or use water.*

(c) Appropriation of water for power purposes subject to this Part shall be pursuant to substantive and procedural provisions of State statutory law, decisional law, and regulations governing appropriation, diversion and use of water.

(d) Establishment of, and compliance with, pursuant to State law, terms or conditions, including licenses, or other entitlements for appropriation, diversion or use of water for power purposes, shall not be deemed to constitute a burden on interstate commerce.

(e) Nothing in this Part shall alter in any way any provision of State statutory law, decisional law, or regulation, or of any interstate compact, governing the appropriation, diversion, or use of water.”

4. *To Section 6 add the following provision after the second sentence: “The commission is not empowered to impose any terms or conditions in any original or new license or amendment to license which are inconsistent with the terms and conditions established pursuant to State law in any permit, license, or other entitlement for appropriation, diversion, or use of water for the project authorized by the license or amendment.”*



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

April 26, 1982

The Honorable Morris K. Udall
Chairman, House Committee on
Interior and Insular Affairs
Cannon House Office Building, Room 235
Washington, D.C. 20510

Dear Congressman Udall:

On January 26, 1982, the Western States Water Council forwarded a copy of a resolution supporting H.R. 4380. The bill establishes a water project insurance fund to assist water authorities in financing the construction of reclamation, irrigation and other water related projects and authorizes the Secretary of Interior to administer the fund. The Council's resolution expresses agreement with the concept outlined in Section 5(a) of H.R. 4380 that any monies appropriated and deposited in the Water Project Insurance Fund from the Reclamation Fund shall be utilized only for expenses and payments with respect to obligations related to the acquisition and construction of irrigation works for the reclamation of arid lands.

It was the intention of the Western States Water Council to urge that any other monies in the Water Project Insurance Fund be used to insure obligations issued for the purpose of constructing projects as defined in Section 2(c) of the bill. That definition includes any system or facilities used or useful for the reclamation of arid lands or for irrigation purposes and for the generation or transmission of electrical energy therefore or for the development of potable water supplies and the storage, regulation and distribution thereof for domestic, municipal, industrial and other uses.(Emphasis Added) A literal interpretation of the Council's resolution might lead your Committee to the conclusion that it relates only to irrigation and reclamation projects. It was definitely intended that the resolution include water projects in the broader sense to also include domestic, municipal, industrial and other uses.

The Western States Water Council reiterates its support of the provisions enumerated in the aforementioned proposed legislation. Additionally, we are hopeful that this letter will be of further assistance to your Committee as you deliberate on this extremely important matter.

Sincerely,

Charles E. Nemir,
Chairman
Western States Water Council

cc: Honorable Abraham Kazen, Jr.
Chairman, House Subcommittee on
Water and Power Resources
Rayburn House Office Building, Room 2408
Washington, D.C. 20515



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

April 26, 1982

The Honorable James A. McClure
United States Senate
3121 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator McClure:

Your bill, S.1299 would permit the Federal Energy Regulatory Commission to exempt hydroelectric projects with total installed capacity of 15 megawatts or less from provisions of the Federal Power Act (FPA) relating to applications for permits, licenses and exemptions.

The Western States Water Council strongly supports expedited development of small hydroelectric projects when compatible with State law governing water rights and protection of the environment. The Council supports your bill's increase from 5 to 15 megawatts of the capacity of hydro capacity of facilities which are exempt from the provisions of the FPA.

The Council would like to offer two amendments to your bill. The first would provide that:

In making the determination under this Section, the commission shall consult with the State in which the facility is or will be located and shall include any such terms and conditions as the State determines are appropriate.

The second would modify the permissive authority for FERC to authorize exemptions of these small hydro facilities by changing in your proposed Section 31, as it appears below, in the fourth sentence, the word "may" to "shall."

SECTION 31

In order to simplify, promote and expedite the development of a non-federal hydroelectric power project, and consistent with the public interest and safety, the Commission, by rule or order, ~~may~~ shall waive any provision of this part, in connection with an application for, or amendment or notice of, a permit, license, or exemption for an existing or proposed water project and appurtenant project works, if the total installed capacity of the project upon completion is equal to or less than fifteen megawatts, subject to terms and conditions that the Commission considers appropriate.

Sincerely yours,

Charles E. Nemir
Chairman



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

April 26, 1982

Frank H. Thomas, Acting Director
Water Resources Council
2120 L Street, N.W., Suite 800
Washington, D.C. 20037

Dear Mr. Thomas:

This letter is in response to requests for comments regarding the proposed "Economic and Environmental Principles and Guidelines for Water and Related Land Resource Implementation Studies," published March 22, 1982 in the Federal Register. The Western States Water Council provided comments with respect to a two page document dated September 4, 1981, entitled "Water Project Planning Guidelines - A Summary of Major Proposed Positions." Our comments were in the form of a letter to William Gianelli, Assistant Secretary of the Army (Civil Works) dated October 20, 1981, a copy of which is attached. While we appreciate the effort to improve on the existing Principles and Standards, we regret that the more detailed Principles and Guidelines of March 22 do not incorporate the recommendations set forth in our earlier comments.

We continue to have concern that water project planning based strictly on a National Economic Development (NED) objective will not be compatible with state water planning and project development efforts in many of the states. Further, we continue to be concerned that the consideration of many important benefits other than those normally included in a NED accounting will not be recognized. We are also concerned with the lack of flexibility if all exceptions to strict adherence to selection of the plan with the greatest net economic benefits will require approval of the Cabinet Council on Natural Resources and Environment. Such a requirement will hardly streamline the project review process.

While the Western State Water Council endorsed the proposal to repeal the Water Resources Council Principles, Standards and Procedures in favor of more flexible guidelines, we fail to see from the March 22 proposal that flexibility would be provided, particularly at the field level. This is especially true in view of the fact that Chapters II and III of the Guidelines call for the existing procedures to be republished unchanged as administrative guidelines.

In summary, the Western States Water Council continues to have the same concerns as were expressed in our earlier comments. We are disappointed that our earlier comments were not incorporated in the March 22 draft. It is important, in our opinion, that the basic concepts of our September 4 comments be given further consideration.

Sincerely,

Charles E. Nemir
Chairman

cc: William Gianelli, Assistant Secretary for Army (Civil Works)

Garrey Carruthers, Assistant Secretary of Interior for Land and Water Resources

Enclosure



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

April 26, 1982

The Honorable John H. Chafee
United States Senate
Russell Building, Room 3103
Washington, D.C. 20510

Dear Senator Chafee:

The Western States Water Council finds that, in general, the provisions of S.2309, 97th Congress, are steps in the right direction for the amendment of the Endangered Species Act, especially those provisions of the bill which would amend Sections 4 and 7 of the Act. However, the Council believes that S.2309 does not go far enough in restoring a reasonable balance between the equally important national objectives of economic development and the conservation of endangered or threatened species. Specifically, the Council urges that S.2309 be amended to reflect the recommendations contained in the Council's position adopted on July 31, 1981 concerning the Endangered Species Act, a copy of which is attached.

Barring a satisfactory resolution of the issues which need to be addressed, the Council recommends that there be a simple one year reauthorization of the Endangered Species Act.

Sincerely yours,

Charles E. Nemir
Chairman

Enclosure

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
REGULATORY REFORM OF THE SECTION 404 PERMITTING PROCESS
July 16, 1982

WHEREAS, Section 101(g) and 510 of the Clean Water Act of 1977 provide that nothing in the Act shall supersede, abrogate or impair state authority to allocate water resources; and

WHEREAS, all western states have established comprehensive systems for water resource allocation; and

WHEREAS, administrative interpretations and regulations by the Corps of Engineers, and other consulting agencies, in implementing Section 404 of the Act have led in the past to interference with the rights of states to allocate water; and

WHEREAS, past implementation of the Section 404 process has resulted in delay, controversy and waste of financial resources; and

WHEREAS, the regulations implementing provisions for state assumption of the 404 permit program have not provided necessary flexibility and incentive to the states, with the result that, to date, no western state has assumed the program; and

WHEREAS, the current Administration has undertaken a review of the Section 404 process and recently approved certain regulatory reforms which will serve as a meaningful step toward improving the Section 404 process, consistent with Congressional intent in passing the Clean Water Act.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council approves this initial reform effort by the present Administration, so as not to supersede, abrogate or impair state authority to allocate water resources, and therefore supports the following specific reform measures:

- (1) Making 404 permit decisions, as a general rule, at the level of the district engineer, or if elevated, final within reasonable time limits.*
- (2) Shortening the time necessary to make permit decisions, and simplifying the decision making process.*
- (3) Directing the Corps of Engineers and the Environmental Protection Agency to promptly simplify regulations regarding state assumption of the 404 program thereby giving the states an incentive to assume the program.*
- (4) Assuring that upon state assumption of the 404 program federal oversight is kept to a minimum.*

- (5) *Directing the Corps not to override state or local zoning or land use decisions, except where water quality, navigation, or other issues of national importance are clearly implicated.*
- (6) *Pursuing vigorously the concept of "state program general permits."*
- (7) *Calling for clarification of the current jurisdiction of the Section 404 program by developing new and more specific criteria for defining the scope of the program.*

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
CLEAN WATER ACT FUNDING UNDER SECTION 106(a)
July 16, 1982

WHEREAS, on May 25th, 1982 the Administration sent to Congress its recommendations for reauthorization of the Clean Water Act; and

WHEREAS, one of its recommendations was to amend Section 106(a), which provides program grants to states and interstate agencies for water pollution control, to limit the amount of funding to \$40.9M in FY83 and such sums as may be necessary for FY84, 85, 86, and 87; and

WHEREAS, the authorized level of funding for FY82 was \$75M and the actual appropriation was \$51.2M; and

WHEREAS, there appears to be a growing trend within the Administration to rely on Title II funds to cover a number of Clean Water Act programs unrelated to the purposes of that Title; and

WHEREAS, state water pollution control program administration is substantially dependent on Section 106(a) grants along with Section 205(g) funding.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council urges the Congress to authorize and appropriate Section 106(a) funds to provide that: (1) Section 106(a) funding is not reduced from the FY82 level for FY83; (2) an appropriate study by an independent contractor be made to determine the actual levels of funding that are needed and should be provided for fiscal years following FY83, and that the study also provide recommendations on the use of 205(g) and 205(j) funds to assure that these funds are appropriately used and that state water pollution control programs are not significantly affected if these funds are reduced or eliminated.

STATEMENT OF THE
WESTERN STATES WATER COUNCIL
before the
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

July 28, 1982

presented by

A. Kenneth Dunn

Western States Water Council Member from Idaho

and

Director of the Idaho Department of Water Resources

Mr. Chairman and members of the subcommittee, I am A. Kenneth Dunn, Director of the Idaho Department of Water Resources and a member of the Western States Water Council representing the State of Idaho. The Western States Water Council was established in 1965 to accomplish effective cooperation among western states in planning for programs leading to integrated conservation, use and development by state, federal and other agencies of their water resources. Twelve states are represented on the Council by members who are appointed by and serve at the pleasure of the Governor of each state. The Council has long been interested in water pollution control and abatement.

The Council states are located in the arid and semi-arid regions of our nation, where water has been and continues to be a critical issue which occupies much of the attention of state policy makers and administrators. Because of the scarcity of water resources in these regions, it has been of vital importance to conserve water from spring runoff for subsequent use through construction and operation of storage dams and reservoirs. In order to manage this important resource, western states have developed sophisticated and comprehensive systems of water allocation based on concepts of beneficial use. Intrastate systems are complimented by interstate compact allocations, equitable apportionments, and other agreements pertaining to water courses flowing in or through more than one state. Congress has repeatedly approved and deferred to these state and interstate water allocation systems. The Supreme Court has stated that water rights for reclamation dams must be obtained in compliance with state law and that states may impose any conditions in those permits which are not inconsistent with clear Congressional directives regarding the reclamation project.

The ability to operate dams and reservoirs is absolutely essential to the proper management of western water resources. Regulating storage and release of water from these dams plays a crucial role in providing water to comply with water right decrees in maintaining instream flows for fishery and water quality purposes, and in fulfilling interstate compact obligations.

It seems clear from the language of the Clean Water Act that Congress intended to delegate to the states the role of determining how to integrate water quality and water supply programs involving dams and reservoirs. This delegation is of the utmost importance in the arid West. In this role, states are clearly in a position to address specific water quality problems associated with a particular dam, as well as carry out other responsibilities associated with state water management.

The Environmental Protection Agency has continually interpreted the Clean Water Act as consistent with this theory of delegation by requiring that flow modification structures such as dams not be considered as point sources of pollution, but rather as non-point sources. As non-point sources, dams have been primarily subject to state control, with the Environmental Protection Agency providing technical guidance. This process allows for responsible state integration of its water supply and water quality programs.

Ignoring this long standing policy, the federal district court in Washington, D.C., in National Wildlife Federation v. Gorsuch, ruled that dams must obtain point source pollution control permits from the Environmental Protection Agency. The court indicated that changing the operational pattern of dams and installing multiple outlet works, among other methods, are means to rectify the pollution effects of dams.

In subjecting all existing and proposed dams to the National Pollution Discharge Elimination System, the court has created an untenable situation. There are estimated to be over two million dams in the nation which the decision affects. Untold sums would conceivably have to be spent to retroactively bring dams into compliance with point source pollution control requirements. Even more importantly in the western states, established hierarchies of water use priority could well be disturbed. Both intrastate and interstate water allocation schemes would be jeopardized if the structure and operational pattern of dams were now changed pursuant to EPA edicts.

Although the losing parties in the National Wildlife Federation case are presently seeking to overturn the decision through the appellate process, the Western States Water Council urges this Subcommittee to endorse specific legislative action which would clearly and permanently clarify Congressional intent; namely, that changes in water quality caused by the carriage, storage, or release of water through dams, conveyance structures and flow diversion facilities are not point sources of pollution which require National Pollution Discharge System permits.

The Western States Water Council supports S.2280, sponsored by Senator Murkowski, as a sound vehicle for amending the Clean Water Act to accomplish this purpose. S.2280 directly and efficiently addresses the problem by simply excluding from the definition of "discharge of pollutants" the effects of water impoundment or release from dams. The "discharge" definition would then be consistent with the definition of "pollutant" contained in Section 502(6) of the Act, which clearly alludes to introduction of extraneous material into the water way, as opposed to alterations in water flow. It would also be consistent with the term "point source" contained in Section 502(14) of the Act, which makes no mention of dams. Of course, this will not mean dams will be unregulated as with regard to pollution control. It simply means that they will be regulated as "non-point sources," and thus treated as Congress intended when passing the Clean Water Act.

Mr. Chairman, I cannot overstate the importance from a western perspective of reiterating Congressional intent with regard to dams under the Clean Water Act. The system of water allocation in the West could be severely hampered if the effect of the National Wildlife Federation decision is not checked. S.2280 provides an appropriate means to do so. The Western States Water Council urges its passage.

I would now be happy to answer any questions you may have.

POSITION
of the
WESTERN STATES WATER COUNCIL
concerning
AMENDMENT OF SECTION 404
of the
FEDERAL WATER POLLUTION CONTROL ACT
October 15, 1982

WHEREAS, the current Administration recognizes the states' primary role in national water resources management and advocates greater state assumption of federal responsibilities; and

WHEREAS, state delegation of national water quality responsibilities was envisioned as a matter of policy with enactment of the Federal Water Pollution Control Act; and

WHEREAS, National Pollutant Discharge Elimination System program responsibilities have been delegated to states for all waters; and

WHEREAS, under existing law and regulations qualifying states may administer the federal 404 permitting program, except for primary waters; and

WHEREAS, such primary waters have been defined under Section 404(g) (1) as: "... those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto..."; and

WHEREAS, the above exception in some states can cover 80% to 90% of the required permits in traditional navigable waters and adjacent wetlands; and

WHEREAS, by Section 10 of the Rivers and Harbors Act of 1899, Congress established a permit system operated by the Corps of Engineers to protect navigation interest of the United States arising from projects in navigable waters; and

WHEREAS, over the years the considerations to be taken into account by the Corps of Engineers in the administration of the permit system have been broadened by subsequent enactments of Congress, including the Fish and Wildlife Coordination Act of 1958 and the National Environmental Policy Act; and

WHEREAS, this may result in duplication of permitting requirements under both federal and state permit systems.

NOW, THEREFORE, BE IT RESOLVED that Section 404(g)(1) be amended to remove the above exceptions with respect to primary waters, and that those states wishing to assume responsibility for administering all permitting requirements under Section 404 in lieu of federal administration be allowed to do so subject to such reasonable requirements as Congress may establish, and that appropriate funding be provided by Congress for such states.

AND, BE IT FURTHER RESOLVED by the Western States Water Council that Congress amend Section 10 of the Rivers and Harbors Act of 1899 by restricting the considerations to be taken into account, including those established by the Fish and Wildlife Coordination Act and the National Environmental Policy Act, by the Corps of Engineers to those relating directly to the protection of the interest of the United States in the navigability of its waters.

RESOLUTION
of the
WESTERN STATES WATER COUNCIL
concerning
WATER PROJECT COST SHARING
October 15, 1982

WHEREAS, the Reagan Administration has indicated its intentions to evaluate present cost-sharing arrangements for federal water resource projects; and

WHEREAS, the states are advised that the Cabinet Council on Natural Resources and Environment has prepared water project cost-sharing proposals for the President's consideration; and

WHEREAS, the states have not been afforded the opportunity to participate in or comment on the development of the proposals; and

WHEREAS, the western states are vitally interested in the financing and repayment of federal water resource projects.

NOW, THEREFORE, BE IT RESOLVED THAT the Western States Water Council strongly urges the Administration to consult with and invite the western states to participate in any process designed to change federal water resources project financing and repayment policies and laws.

BE IT FURTHER RESOLVED THAT the Western States Water Council strongly urges the Administration to make no final decisions on its proposals until the western states have been consulted and have had the opportunity to review and comment on any cost-sharing proposals.



WESTERN STATES WATER COUNCIL

220 South 2nd East / Suite 200 / Salt Lake City, Utah 84111 / Phone (801) 521-2800

October 15, 1982

The Honorable James Abdnor
Chairman of the Water Resources Subcommittee
Senate Environment & Public Works Committee
Dirksen Office Building, Room 4327
Washington, D.C. 20510

Dear Senator Abdnor:

The Council appreciates your Congressional subcommittee studying the possible ramifications of the Supreme Court decision in Sporhase v. Nebraska, and what response, if any, should be made by Congress.

As we advised you, the members of the Legal Committee of the Western States Water Council did meet on October 13, 1982 in Denver, Colorado and discussed the decision.

The consensus of the meeting was to defer any request or action by the Council until further clarification could be obtained on the issue. This should be forthcoming by further action in the Nebraska court on Sporhase, by a decision in El Paso v. Reynolds, et al. and other pending cases. In the meantime, we will request our member states to review their state laws to determine if existing or amendatory state laws would resolve any problems.

In response to your request and after further clarification and review, the Council and the respective state members would welcome the opportunity to engage in a dialogue on the nature and extent of any developing problems and how best to address a solution before any Congressional action is considered.

Very truly yours,

Ray W. Rigby
Chairman

BUDGET AND FINANCE

At the quarterly meeting held April 15, 1982 in Las Vegas, Nevada, the Executive Committee adopted a budget for FY 1983 of \$299,045. The schedule also called for yearly assessments of \$19,500 per state for FY 1983. To accommodate states on biennial budgets, state assessments were set in advance. Since this is a particularly difficult year for state government financing, it was felt that it would be difficult to justify an increase in dues for FY 1984. A subcommittee was appointed by the Chairman at that meeting to examine ways of reducing expenditures and determining future assessments to the states.

At the July meeting held in Wenatchee, Washington the Subcommittee recommended to the Executive Committee that the dues for FY 1984 remain at \$19,500. It was further recommended that reimbursement for subcommittee travel be eliminated except on approval from the Management Subcommittee. It is the intent and goal of the Council to hold the level of the budget within the level of state dues without drawing further upon the reserves.

The audit for Fiscal Years 1981/82 was prepared by the firm of Hansen, Barnett and Maxwell and was presented to the Council by the Secretary-Treasurer Roland Westergard at the annual meeting in July at Wenatchee, Washington. The Auditor's Report was accepted unanimously as written. The accounting policies of the Western States Water Council conform to generally accepted accounting principles as applicable to governmental units. The Council utilizes the modified accrual basis of accounting. The Auditor's Report and 81-82 financial statement are reflected on the following pages.

HANSEN, BARNETT & MAXWELL

A PROFESSIONAL CORPORATION

CERTIFIED PUBLIC ACCOUNTANTS

345 EAST BROADWAY
SALT LAKE CITY, UTAH
84111

July 1, 1982

Members of the Council
Western States Water Council
Salt Lake City, Utah

We have examined the general fund balance sheets and statements of general fixed assets of the Western States Water Council as of June 30, 1982 and 1981 and the related statement of revenue and expenditures and fund balance, and statement of changes in fixed assets for the years then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Western States Water Council at June 30, 1982 and 1981 and the results of its operations for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Hansen, Barnett & Maxwell
SIGNED

WESTERN STATES WATER COUNCIL

General Fund

Statement of Revenues and Expenditures and Fund Balance

For the Years Ended June 30, 1982 and 1981

	Budget Note D	Actual	Actual Over (Under) Budget	Actual Prior Year
Revenues				
Member States' assessments	\$222,000	\$222,000	\$ -	\$212,400
Texas assessment	-	-	-	4,000
Interest income	-	24,816	24,816	22,603
Total Revenues	222,000	246,816	24,816	239,003
Expenditures				
Salaries	147,140	146,122	(1,018)	115,215
Travel	35,700	35,455	(245)	34,371
Contract services	500	134	(366)	-
Payroll taxes and employee benefits	27,000	26,370	(630)	21,926
Printing and reproduction	16,700	16,005	(695)	13,141
Rent	17,000	16,152	(848)	15,222
Freight and postage	6,000	5,707	(293)	4,860
Telephone	7,000	6,977	(23)	6,077
Furniture and equipment	1,700	1,639	(61)	8,817
Office supplies	4,500	4,427	(73)	3,071
Reports and publications	3,000	2,886	(114)	2,246
Meetings and arrangements	1,100	1,070	(30)	1,240
Accounting	1,250	1,250	-	1,205
Insurance	910	906	(4)	955
Contingencies	3,030	2,993	(37)	4,994
Total Expenditures	272,530	268,093	(4,437)	233,340
Excess (Deficiency) of Revenues Over				
Expenditures	(50,530)	(21,277)	29,253	5,663
Fund Balance -				
Beginning of Year	131,877	131,877	-	126,214
Fund Balance -				
End of Year	\$ 81,347	\$110,600	\$ 29,253	\$131,877

The committee charters, committee membership and subcommittee assignments follow:

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 and amended on July 26, 1979 at the meeting in Sitka, Alaska, and on October 16, 1981 at the meeting in Jackson, Wyoming. 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 Interstate Conference on Water Problems, National Governors' Association, 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 Western Governors' Policy Office.

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 call special meetings of the Council on external matters when prompt action by the Council before the next regular meeting is deemed necessary by a majority of Executive Committee members; (3) To create working groups and ad hoc groups; (4) To make assignments to committees; (5) To receive committee reports; and (6) To implement actions and programs approved by the Council.

Program

The Committee shall correlate the Council's liaison with national and regional agencies, and correlate the Council's efforts to keep abreast of broad-scaled developments as they relate to Council programs. The Committee shall be authorized to initiate recommendations for Council actions at conferences, hearings, and special meetings with national water leaders. The Committee may make assignments to other committees and may give direction as to the scope and nature of their activities, and may delegate authority it deems appropriate to the Management Subcommittee of the Executive Committee. The Management Subcommittee is composed of the immediate past chairman, the chairman, the vice-chairman, the secretary-treasurer, and the Executive Director. In the event that one of these positions is vacant, the position on the Management Subcommittee can be filled by a member of the Executive Committee at the discretion of a majority vote of the Management Subcommittee.

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 serve as officers of the Executive Committee but do not necessarily have to be voting members 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 shall consist of a majority of members. A 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. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

Meetings

Regular meetings of the Executive Committee may be held in conjunction with meetings of the Council. Special meetings of the Executive Committee may be called by the Chariman, 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.

EXECUTIVE COMMITTEE MEMBERS

Wesley E. Steiner - Arizona
Ronald B. Robie - California
D. Monte Pascoe - Colorado
Herman J. McDevitt - Idaho
John E. Acord - Montana
Roland D. Westergard - Nevada

S. E. Reynolds - New Mexico
James E. Sexson - Oregon
Bill Clayton - Texas
Thorpe A. Waddingham - Utah
Donald W. Moos - Washington
George Christopulos - Wyoming

Management Subcommittee

Chairman
Vice-Chairman
Secretary-Treasurer
Past Chairman
Executive Director

EXECUTIVE COMMITTEE MEMBERS



1st Row: Roland Westergard, Ray Rigby, John Spencer
2nd Row: Dan Lawrence, Wesley Steiner, Jack Acord, Charles Nemir, John Fraser
3rd Row: Craig Bell, Bill McDonald, Myron Goodson, George Proctor

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 a majority of 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, and amended on October 16, 1981, in Jackson, Wyoming.

LEGAL COMMITTEE MEMBERS

George Proctor — Oregon — Chairman
Henry Loble — Montana — Vice-Chairman

Tom Choules - Arizona
Ronald B. Robie - California
D. Monte Pascoe - Colorado
Ray Rigby - Idaho
Roland D. Westergard - Nevada
Richard Simms - New Mexico

George Hannett - New Mexico
Bill Clayton - Texas
Harry D. Pugsley - Utah
Charles B. Roe, Jr. - Washington
Willard Rhoads - Wyoming

Reserved Rights Subcommittee

Charles B. Roe, Jr. - Washington - Chairman
Richard Simms - New Mexico
Tom Choules - Arizona
Lawrence Wolfe - Wyoming
Henry Loble - Montana
Roland D. Westergard - Nevada

160-Acre Subcommittee

Ray Rigby - Idaho - Chairman
Ruben Ayala - California
Tom Choules - Arizona
George Proctor - Oregon

Joint Subcommittee on Section 404

Charles B. Roe, Jr. - Washington
Harry Pugsley - Utah
Ronald B. Robie - California
Willard Rhoads - Wyoming (alt.)

FERC Licensing Subcommittee

Ronald B. Robie - California
Chairman
Charles B. Roe, Jr. - Washington
George Proctor - Oregon
Lawrence Wolfe - Wyoming

LEGAL COMMITTEE MEMBERS



1st Row: Ray Rigby, George Proctor, Tom Choules
2nd Row: Richard Simms, Charles Roc, Roland Westergard, Norman Johnson, Willard Rhoads, John Fraser

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 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 Water Quality Committee member may designate an alternate to serve in his absence. A quorum shall consist of a majority of 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, and amended on October 16, 1981, in Jackson, Wyoming.

WATER QUALITY COMMITTEE MEMBERS

Calvin Sudweeks — Utah — Chairman
Donald G. Willems — Montana — Vice-Chairman

Robert Lundquist - Arizona
- California

Gary Broetzman - Colorado
Herman J. McDevitt - Idaho
Hal Smith - Nevada

Odis Echols - New Mexico
William H. Young - Oregon
Charles Nemir - Texas
John Spencer - Washington
George Christopulos - Wyoming

Groundwater Subcommittee

Steve Allred - Idaho - Chairman
Don Maughan - Arizona
Don Willems - Montana

Charles Nemir - Texas
Helen Joyce Peters - California

Endangered Species Subcommittee

Daniel F. Lawrence - Utah - Chairman
Robert E. Lundquist - Arizona
George Christopulos - Wyoming

J. William McDonald - Colorado
James E. Sexson, Oregon

Joint Subcommittee on Section 404

John Spencer - Washington - Chairman
George Christopulos - Wyoming

WATER QUALITY COMMITTEE MEMBERS



1st Row: Charles Nemir, Cal Sudweeks, Stanley Barnes
2nd Row: John Spencer, Tony Willardson

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 and Voting

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 a majority of 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, and amended on October 16, 1981, in Jackson, Wyoming.

WATER RESOURCES COMMITTEE MEMBERS

J. William McDonald — Colorado — Chairman
James Sexson — Oregon — Vice-Chairman

Wesley E. Steiner - Arizona
Senator Ruben Ayala - California
Steve Allred - Idaho
John E. Acord - Montana
Duane Sudweeks - Nevada

S. E. Reynolds - New Mexico
A. L. Black - Texas
Thorpe Waddingham - Utah
Donald W. Moos - Washington
Myron Goodson - Wyoming

Dam Safety Subcommittee

J. William McDonald - Colorado - Chairman
Wesley E. Steiner - Arizona
James Sexson - Oregon
Dee Hansen - Utah
Roland D. Westergard - Nevada

P.L. 89-80 Subcommittee

John E. Acord - Montana - Chairman
J. William McDonald - Colorado
James Sexson - Oregon

Indian Water Development Subcommittee

Myron Goodson - Wyoming - Chairman
Wesley E. Steiner - Arizona
John E. Acord - Montana

Principles and Standards Subcommittee

Wesley E. Steiner - Arizona - Chairman
A. Kenneth Dunn - Idaho
Daniel F. Lawrence - Utah

Cost Sharing Subcommittee

A. Kenneth Dunn - Idaho - Chairman
Wesley E. Steiner - Arizona
J. William McDonald - Colorado

WATER RESOURCES COMMITTEE MEMBERS



1st Row: Dan Lawrence, Bill McDonald, Wesley Steiner, David Kelley
2nd Row: Myron Goodson, A. L. Black, Jack Acord, Duane Sudweeks, Jeris Danielson, Richard Smith

These Rules of Organization were changed at the Jackson Hole, Wyoming meeting on October 16, 1981

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, Vice Chairman and Secretary-Treasurer, 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. These officers 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

- (1) 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.
- (2) The Council may establish other committees which shall have such authority as may be conferred upon them by action of the Council.

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 a regular meeting and 10 days prior to a special 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 as an appealable ruling, and in the event an appeal is made, such ruling to be effective must be sustained by an affirmative vote of at least $\frac{2}{3}$ of the member states.

Article XII - Meetings

The Council shall hold regular quarterly meetings at times and places to be decided by the Chairman, upon 30 days written notice. Special meetings may be called by a majority vote of the Executive Committee, upon 10 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 on interstate diversion, any interstate diversion project shall neither impede nor minimize the development of water resources in the state of origin, and shall result insubstantive 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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