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Annual Report  
1986



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**1986**  
**ANNUAL REPORT**  
**OF THE**  
**WESTERN STATES**  
**WATER COUNCIL**

**Twenty-First Annual Report**



# 1986 ANNUAL REPORT of the WESTERN STATES WATER COUNCIL

## INTRODUCTION

The first official meeting of the Western States Water Council was held on August 3, 1965, at Stateline (Lake Tahoe) Nevada. The Western Governors' Conference approved the creation of the Western States Water Council during meetings on June 10-13, 1965, in Portland, Oregon. The governors' resolution explicitly stated: "The future growth and prosperity of the western states depend upon the availability of adequate quantities of water of suitable quality." Further, the governors felt that a fair appraisal of future water needs, and the most equitable means of meeting such needs, demanded a regional effort. Water availability and interbasin transfers of water were important issues. Western states found themselves in an era of rapid federal water resources development and regional or basinwide planning, without a direct unified state voice in the use of their water resources. The Western States Water Council has since provided such a voice on behalf of western governors on water policy issues.

The emphasis and focus of the Western States Water Council has changed over the years as different water policy problems have evolved. However, the commitment towards reaching a regional consensus on issues of mutual concern has continued. The Council has proven to be a dynamic, flexible institution providing a forum for the free discussion and consideration of many water policies which are vital to the future welfare of the West. As envisioned by the Western Governors' Conference, it has succeeded as a continuing body, serving the governors in an expert advisory capacity. For twenty years, the Western States Water Council has endeavored to develop a regional consensus on westwide water policy and planning initiatives, particularly federal initiatives. The Council strives to protect western states' water interests, while at the same time serving to coordinate and facilitate western water planning and management efforts.

Originally, Council membership consisted of the States of **ARIZONA, CALIFORNIA, COLORADO, IDAHO, MONTANA, NEVADA, NEW MEXICO, OREGON, UTAH, WASHINGTON** and **WYOMING**. In 1978, **TEXAS** was admitted to membership, and **ALASKA** requested and received membership in 1984. **NORTH DAKOTA** and **SOUTH DAKOTA** are currently "associate members," which is a temporary status approved by amendment of the Council's Rules of Organization in 1983. Membership is open to all member states of the Western Governors' Association, the successor to the Western Governors' Conference, which also includes the States of **Hawaii** and **Nebraska**.

Each member governor serves on the Council in an ex-officio capacity. The governor appoints three representatives from his or her state, and as many alternates as deemed necessary, to serve on the Council at the governor's pleasure. State representatives are appointed to the working committees, with one representative per state also appointed to the Executive Committee. The Executive Committee attends to internal Council matters with the assistance

of the Management Subcommittee. The Council's working committees are the Legal Committee, the Water Quality Committee, and the Water Resources Committee. Each working committee is directed by a committee chairperson and vice-chairperson. Committee chairpersons, in turn, name special subcommittees and designate subcommittee chairpersons to study issues of particular concern.

The Western States Water Council offices are in Salt Lake City, Utah. The staff is headed by D. Craig Bell, Executive Director. Working with Mr. Bell are: Tony Willardson, Associate Director; Norman K. Johnson, Legal Counsel; and a secretarial staff including Pearl Pollick, Marjorie Farmer, Myrna Shuey, and Merrie Jackson.

Positions taken and resolutions passed at the quarterly meetings of the Council appear in this report. Meetings are held on a rotating basis among the member states, with state representatives acting as hosts to the other Council members and guests. In 1986, meetings were held in: San Antonio, Texas - January 22-24; Denver, Colorado - April 9-11; Ashland, Oregon - July 23-25; and Billings, Montana - October 8-10. Guests are welcome. Guest speakers are scheduled according to the relevant subjects to be considered at each meeting. Information regarding future meeting locations and agenda items can be obtained by writing or calling the Council office.

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1986  
WESTERN STATES WATER COUNCIL  
MEMBERSHIP

ALASKA



**\*\*Esther C. Wunnicke**  
7-84  
William A. Ross  
2-85  
Harold M. Brown  
7-85

**\*Governor William Sheffield**  
1-83

ARIZONA

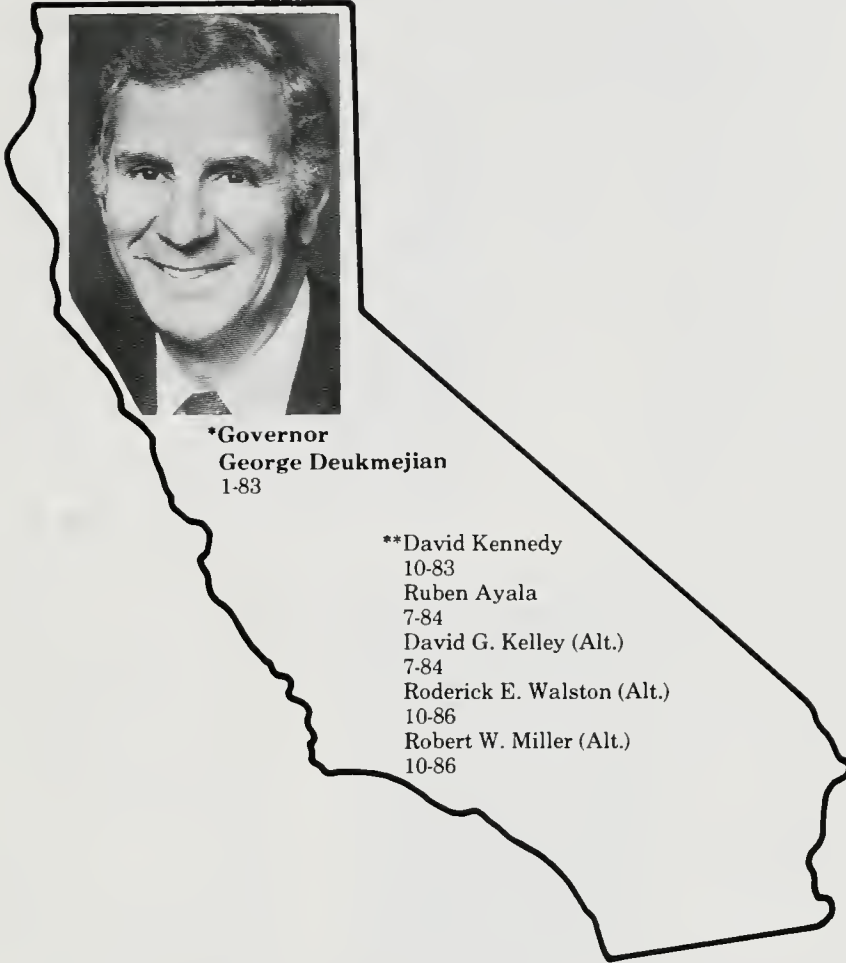


**\*Governor Bruce E. Babbitt**  
1-78

**\*\*Kathleen Ferris**  
10-85  
Sidney Woods  
7-83



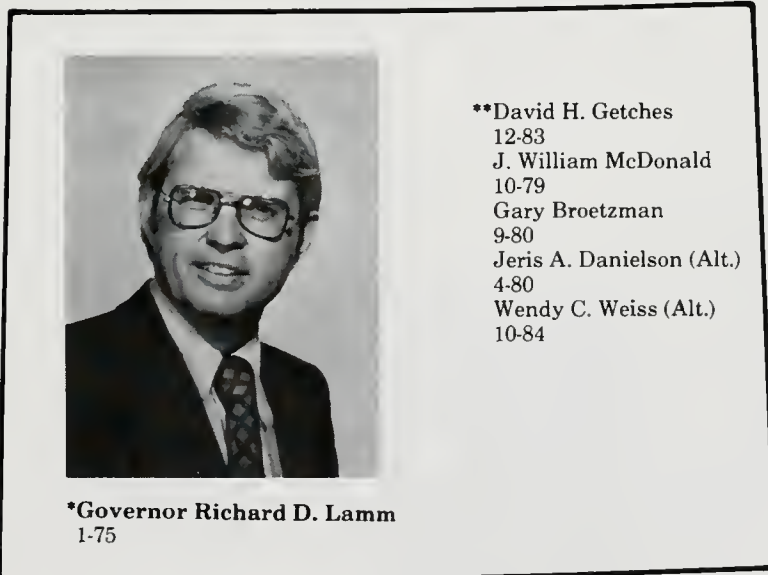
## CALIFORNIA



**\*Governor  
George Deukmejian  
1-83**

**\*\*David Kennedy  
10-83  
Ruben Ayala  
7-84  
David G. Kelley (Alt.)  
7-84  
Roderick E. Walston (Alt.)  
10-86  
Robert W. Miller (Alt.)  
10-86**

## COLORADO



**\*Governor Richard D. Lamm  
1-75**

**\*\*David H. Getches  
12-83  
J. William McDonald  
10-79  
Gary Broetzman  
9-80  
Jeris A. Danielson (Alt.)  
4-80  
Wendy C. Weiss (Alt.)  
10-84**

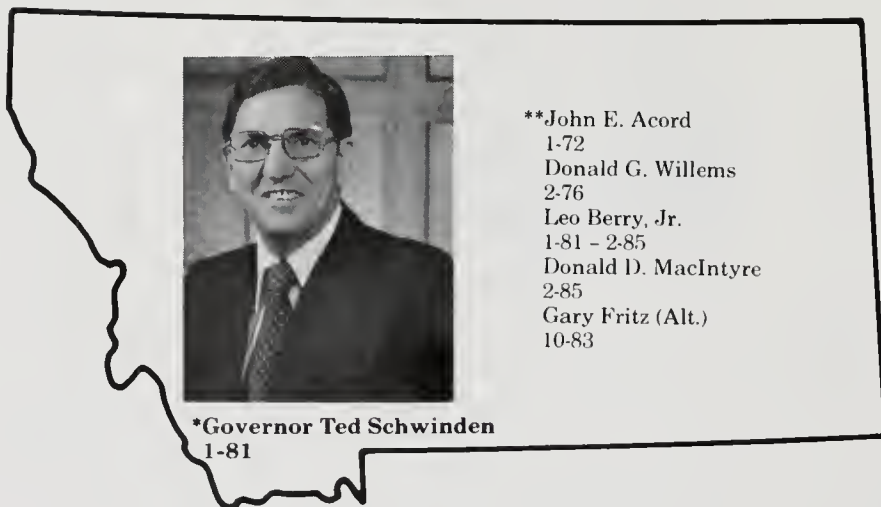
## IDAHO



**\*\*A. Kenneth Dunn**  
5-77  
Ray Rigby  
2-73  
Gene Gray  
10-83  
Wayne Hass (Alt.)  
10-83  
Lee Stokes (Alt.)  
10-83

**\*Governor John V. Evans**  
1-77

## MONTANA



**\*\*John E. Acord**  
1-72  
Donald G. Willems  
2-76  
Leo Berry, Jr.  
1-81 - 2-85  
Donald D. MacIntyre  
2-85  
Gary Fritz (Alt.)  
10-83

**\*Governor Ted Schwinden**  
1-81

## NEVADA



**\*Governor Richard Bryan**  
1-83

**\*\*Roland D. Westergard**  
5-68  
**Joseph E. Dini, Jr.**  
7-83  
**Jack L. Stonehocker**  
9-83

## NEW MEXICO



**\*Governor Toney Anaya**  
1-83

**\*\*S. E. Reynolds**  
6-65  
**Charles DuMars**  
2-84  
**Denise Fort**  
1-85

## OREGON



**\*Governor Victor Atiyeh**  
1-79

**\*\*William H. Young**  
3-79  
George Proctor  
3-79  
Kip Lombard  
1-83

## TEXAS



**\*Governor Mark White**  
1-83

**\*\*John T. Montford**  
10-83  
Charles E. Nemir  
10-78  
Fred Pfeiffer  
10-83

## UTAH



**\*Governor Norman H. Bangerter**  
1-85

**\*\*Dee C. Hansen**  
3-85  
Thorpe A. Waddingham  
6-65  
D. Larry Anderson  
3-85  
Dallin Jensen (Alt.)  
7-71  
Calvin K. Sudweeks (Alt.)  
3-79

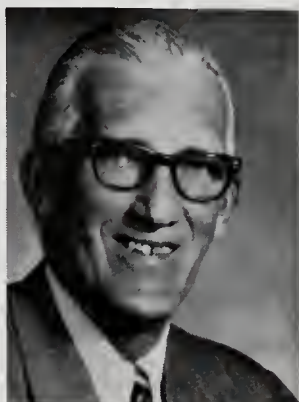
## WASHINGTON



**\*Governor Booth Gardner**  
1-85

**\*\*Andrea Beatty Riniker**  
2-85  
Charles B. Roe, Jr.  
4-70  
Glen Fiedler  
7-84  
Wilbur G. Hallauer (Alt.)  
4-77

## WYOMING



**\*Governor Ed Herschler**  
1-75

**\*\*George L. Christopulos**  
4-75  
**Willard C. Rhoads**  
3-67 - 10-86  
**Warren G. White**  
3-83  
**Myron Goodson**  
6-65 - 3-83  
10-86

\*Ex-Officio Member  
\*\*Executive Committee Member

**COUNCIL MEMBERS  
AT ASHLAND, OREGON, MEETING July 1986**



Back Row: J. William McDonald, Calvin Sudweeks, William H. Young, John E. Acord, D. Larry Anderson, Thorpe A. Waddingham, Dee C. Hansen, David H. Getches, Jack L. Stonehocker, George Proctor, Joseph E. Dini, Jr.  
 Front Row: Robert W. Miller, Gary Broetzman, Charles B. Roe, Jr., A. Kenneth Dunn, Fred Pfeiffer, Gene Gray, David Kennedy, David G. Kelley, Roland D. Westergard, Kip Lombard

## STAFF

D. Craig Bell .....	Executive Director
Anthony G. Willardson .....	Associate Director
Norman K. Johnson .....	Legal Counsel
Pearl O. Pollick .....	Office Manager
Marjorie D. Farmer .....	Secretary
Myrna K. Shuey .....	Report Secretary
Merrie Jackson .....	Clerk



Back Row: Norman K. Johnson, D. Craig Bell, Tony Willardson  
Front Row: Pearl Pollick, Marjorie Farmer, Myrna Shuey  
Not Pictured: Merrie Jackson

**Council offices are located at:**

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



## PRESENT AND PAST OFFICERS AND EXECUTIVE DIRECTORS

The following served as officers during 1986:

CHAIRPERSON	VICE-CHAIRPERSON	SECRETARY/TREASURER
J. William McDonald 7/86	Roland D. Westergard 7/86	Dee C. Hansen 7/86
John E. Accord 7/84 - 7/86	J. William McDonald 7/84 - 7/86	Roland D. Westergard 7/80 - 7/86

Since the Council's inception in 1965, the following individuals have served as Council officers:

Chairperson:	Freeman Holmer	- Oregon	8/65 to 10/66
	Raphael J. Moses	- Colorado	12/66 to 7/69
	William S. Holden	- Idaho	7/69 to 3/71
	William R. Gianelli	- California	7/71 to 7/73
	William A. Groff	- Montana	7/73 to 7/75
	Wesley E. Steiner	- Arizona	7/75 to 7/77
	Chris L. Wheeler	- Oregon	7/77 to 7/78
	Donald L. Paff	- Nevada	7/78 to 7/79
	George Christopulos	- Wyoming	7/79 to 7/80
	Daniel F. Lawrence	- Utah	7/80 to 7/81
	Charles E. Nemir	- Texas	7/81 to 7/82
	Ray W. Rigby	- Idaho	7/82 to 7/83
	John Spencer	- Washington	7/83 to 7/84
	John E. Acord	- Montana	7/84 to 7/86
	J. William McDonald	- Colorado	7/86
Vice Chairperson:	Raphael J. Moses	- Colorado	8/65 to 12/66
	William S. Holden	- Idaho	12/66 to 10/68
	William R. Gianelli	- California	7/69 to 7/71
	William A. Groff	- Montana	7/71 to 7/73
	Wesley E. Steiner	- Arizona	7/73 to 7/75
	Chris L. Wheeler	- Oregon	7/75 to 7/77
	Donald L. Paff	- Nevada	7/77 to 7/78
	George Christopulos	- Wyoming	7/78 to 7/79
	Daniel F. Lawrence	- Utah	7/79 to 7/80
	Charles E. Nemir	- Texas	7/80 to 7/81
	Ray W. Rigby	- Idaho	7/81 to 7/82
	John Spencer	- Washington	7/82 to 7/83
	John E. Acord	- Montana	7/83 to 7/84
	J. William McDonald	- Colorado	7/84 to 7/86
	Roland D. Westergard	- Nevada	7/86
Secretary-Treasurer:	Donel J. Lane	- Oregon	8/65 to 4/70
	Floyd A. Bishop	- Wyoming	4/70 to 7/73
	Daniel F. Lawrence	- Utah	7/73 to 7/79
	Charles E. Nemir	- Texas	7/79 to 7/80
	Roland D. Westergard	- Nevada	7/80 to 7/86
	Dee C. Hansen	- Utah	7/86

The following have served as Executive Director:

Wright Hiatt	2/66 to 7/67
Jay R. Bingham	3/68 to 12/69
Thomas Cahill	1/70 to 9/73
Jack A. Barnett	3/74 to 11/80
D. Craig Bell	11/80

# QUARTERLY MEETINGS

## Eighty-First Quarterly Meetings

January 22-24, 1986  
San Antonio, Texas

The eighty-first quarterly meetings of the Western States Water Council were held January 22-24, in San Antonio, Texas. The Joint Ground Water Subcommittee met in the evening on January 22, to discuss federal ground water legislation. Jimmie Powell, Professional Staff Member, Senate Environment and Public Works' Subcommittee on Toxic Substances and Environmental Oversight, described S. 1836 (H.R. 3808), a bill to establish ground water quality protection programs. He also spoke on ground water provisions in other pending federal legislation. Edwin H. (Toby) Clark, II, Project Director, Conservation Foundation, summarized for the Subcommittee the report and recommendations of the National Ground Water Policy Forum and accepted comments on the report. Both speakers urged the Council to become involved in the legislative process which may lead to a comprehensive federal ground water law in the foreseeable future. The Joint Ground Water Subcommittee also met January 23, to discuss potential Council responses to federal ground water initiatives.

In the Three-Committee Informational Meeting on January 23, the featured speaker was the Honorable Albert G. Bustamante, Congressman from the Twenty-Third District of Texas. He presented his views on ground water, and stressed the need for its protection, with state and local agencies taking the lead. H.R. 3808, which Representative Bustamante introduced in the House, was discussed. Mr. Bustamante stated that the bill is intended to encourage debate on ground water issues. Jimmie Powell also spoke in the Three-Committee meeting. Following his presentation, Council members heard from Myles Flint, Deputy Assistant Attorney General, Land and Water Resources Division, Department of Justice. He spoke on federal/state relations in water resource management. Council members were particularly interested in his views on Sierra Club v. Block, a case involving federal reserved water rights for wilderness areas in Colorado, and United States v. Adair, a case involving reserved rights for a wildlife refuge in Oregon. Mr. Flint reaffirmed the federal government's commitment to participate in state adjudication proceedings to quantify federal water rights.

After the Three-Committee Meeting, the Water Resources, and Water Quality and Legal Committees met. The Water Resources Committee heard from Clifford Barrett, Bureau of Reclamation, Regional Director of the Upper Colorado Region. He discussed the Bureau's ground water recharge demonstration program. Warren Harper, of the United States Forest Service, then described the hydrologic methodology being used to calculate Forest Service claims for instream flows. Staff member Tony Willardson presented a federal legislative summary and update in which he covered the Small Reclamation Projects Act, the Endangered Species Act, FERC relicensing legislation, and the Corps omnibus bill. The Committee approved and proposed for Council consideration two resolutions, one on tax-exempt financing and one on the Corps omnibus reauthorization legislation (S. 1567 and H.R. 6). The Water

Quality Committee discussed federal ground water quality legislation with the participation of Jimmie Powell and Toby Clark. Staff member Norman Johnson gave a status report on legislation to reauthorize the Clean Water Act (CWA) and the Safe Drinking Water Act. The Committee created two new subcommittees, one on EPA/state relations and the other on ramifications of the Clean Water Act and the Safe Drinking Water Act reauthorizations. Council member Cal Sudweeks described the recently released report on non-point source pollution prepared by the Association of State and Interstate Water Pollution Control Administrators. The Committee also approved, for presentation to the Council, a resolution on an EPA proposal to change the method of allocating funds under the CWA construction grants program. The Legal Committee met and participated first in a question and answer session with Myles Flint. Following this, David Lindgren, Department of Interior, Regional Solicitor, Sacramento, California, gave his views on the Migratory Bird Treaty Act and water resource issues. He stressed that interpretations of the Act have, thus far, found violators strictly liable for their actions. The Legal Committee considered a proposed resolution on negotiation of Indian water right claims, and appointed a subcommittee to further review the matter and prepare a position for the April Council meeting. The Committee discussed a number of recent cases, as well as the Council's cosponsorship of a water rights workshop to be held February 13-14, in San Diego, California.

The full Council met on January 24, and heard from Texas State Senator John Montford on water management and development in Texas. Cliff Barrett addressed the group and gave an update of Bureau of Reclamation related legislation in Congress and other Bureau activities. Council committee chairpersons reported on the committee activities of Thursday, including approval of final work plan documents, and presented three resolutions for Council consideration. All were approved by the Council. The first resolution related to tax-exempt financing. It opposed any action by Congress and the Administration which would threaten state water resource programs by severely restricting the use of tax-exempt financing for water resource development, flood control, or wastewater treatment. The second resolution addressed Corps omnibus reauthorization legislation, but took no position favoring or opposing H.R. 6 or S. 1567. Rather, it addressed specific issues of concern to the Council which would be affected by the legislation including cost sharing, dam safety, endangered species, federal water pricing policies, and the Water Resources Policy Act. The third resolution requested that EPA drop plans to adopt a policy to limit construction grant funding under the Clean Water Act for projects involving trickling filters and waste stabilization ponds to those which produce an effluent of 45 mg/l biological oxygen demand (BOD) and 45 mg/l total suspended solids (TDS). The resolution further urged EPA to allow states to continue to make judgments on project funding within the framework of the current EPA construction grant regulations.

## **Eighty-Second Quarterly Meetings**

**April 9-11, 1985**

**Denver, Colorado**

The eighty-second quarterly meetings of the Western States Water Council were held April 9-11, in Denver, Colorado. During the full Council

meeting on Friday, April 11, three policy positions were approved. First, the Council adopted a resolution “encouraging negotiated settlements of Indian water rights disputes based on . . . (the) belief that in many cases . . . such settlements offer the best possible solution to a critical problem that affects all of the western states.” The resolution calls upon “Congress, the President, and the Secretary of the Interior to promote and encourage negotiated settlements of Indian water rights disputes and to assist in the implementation of fair and equitable settlements in a spirit that generously recognizes that the federal government has unique responsibilities and commitments to Indian tribes, as well as important obligations to holders of vested water rights under state law.” Second, the Council opposed a U.S. Army Corps of Engineers policy requiring the City of Orofino, Idaho to pay for any federal hydropower revenue foregone at Dworshak Dam in order to use water from the reservoir for municipal purposes. The resolution urges “the Administration to renounce and reverse any similar federal fees pertaining to its facilities.” It further requests that “federal agencies, including the Corps of Engineers, recognize the requirement that withdrawals from federal reservoirs must be authorized under state water rights law.” Third, the Council resolved to support a set of basic principles relating to federal ground water quality legislation, which provide that: (1) ground water quality protection is the primary responsibility of the states; (2) states shall have the responsibility to set standards for ground water quality; (3) states shall establish strategies and mechanisms that are appropriate for protecting ground water within their borders; and (4) federal actions shall support state programs.

Also during the meeting, Colorado Attorney General Duane Woodard described for Council members: (1) the proposed Indian water rights settlement negotiated with the Ute Mountain Ute/ Southern Ute/Colorado tribes; (2) cases filed by Colorado under CERCLA against major polluters; and (3) a number of federal reserved water rights cases. Joe Findaro, Deputy Assistant Secretary of Interior for Water and Science, described: (1) pollution from irrigation drainage, including Interior’s objectives of eliminating threats to people and wildlife, preserving farming, and protecting water quality; (2) the Reclamation Reform Act regulations; and (3) Interior budget matters. He also discussed H.R. 3906, “The National Ground Water Contamination Research Act,” introduced by Rep. Sam Gejdenson of Connecticut. Among other things, the bill would expand and codify the ground water research activities of the US Geological Survey. Mr. Findaro expressed the Department’s support for the concepts behind the bill, but not necessarily the legislation itself. The Council also heard from Jack Fischer, USGS Water Resources Division. He described ground water related activities and preparation of the next national water assessment.

The Council’s Three-Committee Informational Meeting was held April 10. Lawrence J. Jensen, Assistant EPA Administrator for Water, stressed that water quality administrators at all levels of government currently face two basic challenges: (1) coming to grips with the presence of toxics in water; and (2) how to finance the next generation of water pollution control. He described the problem of toxics in some detail, noting that while quantities seem generally to be minute and their health effects not necessarily known, public interest in their abatement is high. On funding, he stated that success has been realized in controlling point sources, in part with a \$42 billion price tag for EPA’s construction grants program. The key issue in the present clean water debate is how to phase out federal funding. Yet, much water pollution control remains to be done, with or

without federal funds. Next, a panel discussion was held on the resolution of Indian water right claims. It was moderated by Reserved Rights Subcommittee Chairman, George Proctor. Panelists were Michael D. (Sandy) White, Attorney with White and Jankowski, Michael J. Clinton, Dept. of Interior Special Assistant to the Under Secretary, Robert S. Pelcyger, Attorney with Fredericks and Pelcyger, and Paul L. Bloom, Attorney. They discussed a number of issues, including the structure of Indian water rights settlement negotiations, related funding problems, the role of the Supreme Court in equitable apportionments and interstate compacts, the interface between negotiations and water rights general adjudications, and the advantages of negotiation as compared to other forms of dispute or conflict resolution.

The Council's three working committees also met on April 10. The Legal Committee heard from Charles DuMars on a report recommending that New Mexico appropriate unappropriated ground water for future uses, and from Ray Rigby on the proposed sale of the Bonneville Power Administration. The Committee also discussed recent cases, an ABA/WSWC water rights seminar, and language in H.R. 8 (to reauthorize the Clean Water Act) which would recognize Indian tribes as states for many purposes. The Water Quality Committee discussed EPA/State relations, pending federal water quality legislation, and ground water issues. Larry Jensen provided a federal viewpoint during the EPA/State relations discussion. Also, Mr. Jensen commented on the wellhead protection language in the Safe Drinking Water Act reauthorization bill, pointing out a number of potential difficulties. The Water Resources Committee heard a report from Bruce Driver on the Western Governors' Association's water efficiency report, and from Jim Ziglar of Paine-Webber on federal tax reform proposals. Further, Robert J. Kaighn, of the Office of the Assistant Secretary of Army, discussed the Corps water pricing policies. Other issues discussed were the Endangered Species Act, the Small Reclamation Projects Act, and FERC relicensing legislation. Of note, members of the Water Policy Committee of the Western Legislative Conference attended and participated in some of the Council meetings.

## **Eighty-Third Quarterly Meetings**

**July 23-25, 1985**

**Ashland, Oregon**

The eighty-third quarterly meetings of the Western States Water Council were held July 23-25 in Ashland, Oregon. On July 23, Council members and their guests were hosted on a bus tour of the Klamath and Rogue River Basins organized by Oregon Council members. The Council's Joint Ground Water Subcommittee later met to discuss federal ground water legislation. Council members noted that no new legislation had been introduced since late last year. Further, it appears that introduction of a comprehensive bill by Senator David Durenberger of Minnesota would be delayed for some time. Given these facts, the Subcommittee decided to draft proposed federal ground water legislation, to be considered by the full Council at a future meeting, rather than act on a proposed resolution containing statements of principle for any future federal ground water law.

On July 24, in the Three-Committee Informational Meeting, the Council heard from Joseph Marcotte, Acting Assistant Commissioner, U.S. Bureau of Reclamation. Mr. Marcotte described the status of rules and regulations implementing the Reclamation Reform Act. He stressed that consensus is being sought in key areas and that draft rules should be published by late August. The Bureau hopes to have final rules by next January. Mr. Marcotte also discussed issues related to voluntary transfers of Bureau of Reclamation water, irrigation drainage water pollution, the ground water recharge demonstration program, and the Small Reclamation Projects Act reauthorization.

Also in the Three-Committee Meeting, the Council heard a panel discussion on water for fish and wildlife purposes. The panelists were Ed Dickey, Deputy Assistant Secretary, Department of Army (Civil Works), Don Godard, Chairman of the Fish and Wildlife Committee, Pacific Northwest Power Planning Council, Christopher Meyer, Counsel, National Wildlife Federation, and Bill McDonald, Director, Colorado Water Conservation Board. Mr. Dickey described the relationship of the Clean Water Act's Section 404 permitting program to protection of instream flows, and the role of the district engineer in making permit decisions. He stressed that project sponsors need to look at meeting mitigation needs through incremental planning. Mr. Godard described some of the difficulties in carrying out the Power Planning Council's responsibility to protect fish, when that effort conflicts with other responsibilities related to power production. Mr. Meyer described the source of many conflicts relating to these issues in terms of conservationists' traditional failure to understand the value of state water allocation systems and the water development community's lack of appreciation for the value of free flowing rivers. Bill McDonald stressed the existing ability of state water allocation systems to provide water for fish and wildlife, and described a pending situation in Rocky Mountain National Park which may lead to the first litigation involving a claim of so-called federal "non-reserved" water rights.

After the Three-Committee Meeting, the Water Resources and Water Quality Committees met simultaneously. The Water Resources Committee heard from Ed Dickey on Army Corps of Engineers' water pricing policies, and from Joe Gibbons, of the General Accounting Office, on a report documenting cases where the Endangered Species Act has delayed construction of water projects. Further, Council members Dee Hansen and Bill McDonald discussed, respectively, the Western Governors' Association water efficiency study and Endangered Species Working Group activities in the Upper Colorado River Basin. Further, staff member Tony Willardson updated Council members on the Corps omnibus bill, the Small Reclamation Projects Act, federal tax reform, and the Endangered Species Act.

The Water Quality Committee heard presentations on state ground water quality protection programs from Council members Kathy Ferris of Arizona and Kip Lombard of Oregon, as well as Darlene Ruiz, Vice Chairperson of the California State Water Resources Control Board. The states are at different junctures in program development. California and Oregon are gathering information, while Arizona has recently passed a major legislative package. Staff member Norman Johnson updated the Committee on the status of the Clean Water Act reauthorization, federal ground water bills, and the recently reauthorized Safe Drinking Water Act.

The Legal Committee met next and heard first from Bill McDonald on the negotiation of Indian water rights in Colorado. He described a settlement determining the reserved water rights of the Southern Ute and Ute Mountain Ute Indian Tribes. The linchpin of the agreement is the Animas-La Plata Project. Following Mr. McDonald, Michael J. Clinton, Special Assistant to the Under Secretary, Department of Interior, discussed activities of the Ad Hoc Indian Water Right Negotiating Group, which is made up of representatives from the federal government, the Western Regional Council, the Western Governors' Association, and the Indian community. He described the goals of the group and urged the Western States Water Council's participation. The Committee also heard Kathy Ferris describe Arizona's new ground water recharge law, and Dave Getches updated Council members on federal reserved water rights for wilderness areas. Jack Peterson, Executive Director of the Idaho Mining Association, discussed the Reagan Administration's proposal to sell the Bonneville Power Administration. Although he noted that the proposed sale is temporarily stalled, he listed a number of reasons why, in his opinion, the proposal will resurface and be seriously reconsidered in the future. The Legal Committee also heard Darlene Ruiz describe United States v. State Water Resources Control Board, a case which, among other things, solidifies the operation of the public trust doctrine in relation to appropriative water rights in California.

The full Council met on Friday morning, July 25, and heard a progress report from Don Godard on Pacific Northwest Power Planning Council activities. He described the Planning Council's efforts to implement the Northwest Power Planning Act in harmony with other Columbia River Basin goals and objectives. The featured speaker at the meeting was Robert Dawson, Assistant Secretary of the Army (Civil Works). Mr. Dawson focused on the pending Corps omnibus bill (H.R. 6). He emphasized the importance of passage of the bill by noting that the water development community must prove it can construct projects in the face of the "Gramm-Rudman mentality" or lose the federal role in water resource development. Mr. Dawson further stated that the bill must pass by the Labor Day recess, if it is to have its best chance. He stressed that of the 41 new starts in the supplemental appropriations bill last year, 33 required local cost sharing. Of those 33, 32 cost sharing agreements have been signed. He said this demonstrates the willingness of project beneficiaries to shoulder their share of the cost. Mr. Dawson noted that on July 23, House and Senate conferees exchanged compromise versions of the omnibus bill. This showed a new understanding on the House-side of the Senate's problems, and vice versa. This is important, Mr. Dawson noted, because the final conference bill must be close to the Senate version in order to receive the President's approval. Mr. Dawson encouraged all parties interested in the development of water resources, including an appropriate federal role, to be vocal in the next few weeks in their support of the Corps omnibus bill. Next, Council members discussed an invitation by the Western Governors' Association to participate in its Water Efficiency Working Group, and possible participation in the Ad Hoc Group on Indian Reserved Water Rights. Craig Bell was appointed to represent the Council on the Ad Hoc Group, and Dee Hansen to serve on the Water Efficiency Group. Additional representatives to the Water Efficiency Group may be appointed in the near future. Lastly, during the annual election of Council

officers, members voted unanimously in favor of Bill McDonald as Chairperson, Roland Westergard as Vice-Chairperson, and Dee Hansen as Secretary-Treasurer.

## **Eighty-Fourth Quarterly Meetings**

**October 8-10  
Billings, Montana**

The eighty-fourth quarterly meetings of the Western States Water Council were held October 8-10 in Billings, Montana. On October 8, the Joint Ground Water Subcommittee met to review a draft WSWC proposal for federal ground water legislation. The Subcommittee made several changes and decided that a new draft should be prepared and circulated for further comment prior to the next quarterly Council meeting.

On October 9, during the Three-Committee Informational Meeting, a special panel discussed the resolution of water disputes by negotiation, using as an example the Westlands Water District experience in California. The panel consisted of: Jerry Butchert, Manager, Westlands Water District; Tom Graff, Environmental Defense Fund; and Joe Findaro, Deputy Assistant Secretary for Water and Science, Department of Interior. Mr. Butchert described the historic and hydrologic background of the District, while Mr. Graff noted environmental concerns and the relative success, in this instance, of negotiation as opposed to confrontation. Mr. Findaro addressed the federal interest in minimizing the cost to the U.S. Treasury, given valid existing contracts with the District. He noted the settlement, which should be signed by January of 1987, would cost the government less than what is projected should it litigate and win. While the proposed settlement has been submitted to Congress for review, specific Congressional action is not required to execute the agreement. However, Congressman George Miller (D-CA), Chairman of the House Interior Committee's Water and Power Subcommittee, has opposed the expenditure of any money for its execution.

Also on October 9, the Council's standing committees met. The Executive Committee reviewed various Council activities. Of note, a WSWC Water Policy Seminar, similar to that held in 1985, has been scheduled for April 1987 in Washington, D.C. (in conjunction with the 86th WSWC quarterly meetings). A final agenda will be approved in January. Topics which may be included are ground water quality protection; Indian reserved water rights; and either federal water pricing, marketing, and transfers; or Federal Energy Regulatory Commission licensing procedures and state water rights. The Seminar is intended to be a vehicle to acquaint congressional staff and others with priority issues in western water management.

Fred Pfeiffer, General Manager of the San Antonio River Authority, chaired the Water Quality Committee meeting. Max Dodson, Director of EPA's Region VIII Water Division, spoke to the Committee regarding ammonia toxicity problems, including pH, temperature, and total dissolved solids (TDS) parameters. The Committee reviewed the proposed WSWC ground water legislation and H.R. 5526, which the House has passed, to strengthen U.S. Geological Survey ground water research activities. The Committee also discussed reauthorization of the Safe Drinking Water Act, pending action on the Clean Water Act, EPA/State relations, and water pollution problems caused by



abandoned mining operations. Lastly, the Committee accepted an updated staff report, Western State Ground Water Management.

The Water Resources Committee, chaired by Bill Young, Director of the Oregon Water Resources Department, tabled a proposed position on H.R. 4089, which would have prohibited the construction of dams in national parks and monuments. The issue was raised last July, but provisions in the bill which were objectionable to the Council have since been removed. The Committee approved a position calling for federal action to remedy a situation, under the Gramm-Rudman-Hollings Deficit Reduction Act, where sequestration of U.S. Geological Survey money has affected not only federal, but state cooperator funds. Further, the Committee accepted a staff report, Western State Drought Management, and approved a recommendation by California State Senator Ruben Ayala for the preparation of a model state drought management plan. The Water Resources Committee also created a new subcommittee, to be chaired by Jack Acord, Assistant Administrator of the Montana Water Resources Division, to continue legislative and other efforts to insure state water rights are protected in FERC hydropower licensing proceedings. Lastly, the Committee discussed a recent controversy between the Sabine River Authority and the U.S. Fish and Wildlife Service over a proposed reservoir site and private hunting preserve. The private preserve has offered the Fish and Wildlife Service a permanent non-development easement, but would retain exclusive hunting privileges. If accepted, it would create a federal obstacle to development of the Waters Bluff Reservoir site, for municipal use, now in the process of being added to Texas' state water plan. The agreement is now in the environmental review process, and the Committee suggested writing the Service to ask for more time to consider the potential westwide implications. The issue could affect some fifteen reservoir sites in Texas.

Next, the Legal Committee met and recommended for Council approval a position urging member states to encourage and continue efficient and effective general adjudications of water rights, including the settlement of water right claims by negotiation as an element of the adjudication process. Also, on the subject of resolving water right disputes by negotiation, the Committee heard presentations on: (1) the Garrison Diversion Unit of the Pick-Sloan Missouri Basin Program by North Dakota State Engineer Vern Fahy, and Mike Dwyer, Director of the North Dakota Water Users Association; (2) the Animas-La Plata Project by Bill McDonald, Director of the Colorado Water Conservation Board; and (3) the activities of the Ad Hoc Group on Indian Reserved Water Rights. The Committee addressed various other issues. Kathy Ferris, Director of the Arizona Department of Water Resources, is the new Legal Committee Chairperson.

On October 10, the Eighty-Fourth Quarterly Meeting of the Western States Water Council was held. Larry Fasbender, Director of the Montana Department of Natural Resources, reported on negotiations regarding the allocation and use of Missouri River Basin waters. Next, David Getches, Director of the Colorado Department of Natural Resources, spoke regarding lessons which could be learned from water management experiences in the Colorado River Basin. With respect to formal action, the full Council ratified actions of the Water Resources and Legal Committees by approving the USGS/State cooperative program funding position, the position on general water rights adjudications, and under unanimous consent, sending a letter to the Fish and Wildlife Service requesting

that the Service not take final action with regard to the Waters Bluff Reservoir issue until the Council could further study the issue and provide its views on the potential westwide implications of the action. Various Council members then reported on important water resources-related developments across the West. Finally, potential future activities of the Council's committees were discussed under the proposed 1987 Work Plan.

## OTHER IMPORTANT ACTIVITIES

In addition to the activities undertaken as part of the Council's regular quarterly meetings and the formal resolutions and positions adopted by the Council, several other important events occurred.

### **ABA Workshop**

A workshop on water rights and recent developments in western water law cosponsored by the Council, the Western Attorneys General, and the American Bar Association, was held February 13-14, 1986, in San Diego, California. Approximately 135 participants attended the Seminar. Workshop speakers included Council members David Getches, Rod Walston, Kathy Ferris and Charles Roe, as well as others formerly associated with the Council including, Paul Bloom, Larry Wolfe and Richard Simms. United States Assistant Attorney General for Land and Natural Resources, Henry Habicht II, was a featured speaker. The topics discussed fell under the general categories of water marketing, Indian water rights, problems of federalism related to water resource management, and current water/legal developments.

### **Third Annual Water Management Symposium**

The Third Annual WSWC Water Management Symposium, Instream Flows and the Public Trust, was held on September 11-12, 1986 in Los Angeles, California. Twelve authors from ten states presented papers. Generally, the public trust doctrine, based on common law and inherent sovereign power, dictates a state cannot alienate the public interest in water resources. Therefore, private water users cannot obtain vested water rights which the state cannot revoke if necessary to promote the public interest. While protection of the public interest has been codified by some state constitutional and statutory law, the Public Trust Doctrine is predominantly a judicial creation. Views on the issue range from the Public Trust Doctrine as a legal fiction, created through an inappropriate exercise of legislative authority by the judiciary, to that of the public trust as a basic tenet of state water law and policy which provides an opportunity for recognizing new less traditional uses, such as instream flows, and improving state water management. Seventy state and local water officials, private attorneys and other water interests attended. The symposium proceedings have been published and distributed by the Council. Copies are available.

### **Ground Water Report**

In October of 1986, the Council published Western State Ground Water Management. The report is an update of an earlier study published in 1982. It contains a state-by-state summary of ground water quantity and quality management programs in the western states, including changes which have recently been made in many states. It demonstrates a commitment at the state level to the continued protection and wise use of ground water resources. Copies are available from the Council offices.

### **Drought Report**

During the 1976-77 drought, western governors designated the WSWC as the lead agency for state drought policy and program development activities.

The Council served as a clearinghouse for information about drought conditions, state drought-related mitigation and water conservation efforts, and federal drought assistance programs. Unfortunately, many potential mitigation measures could not be implemented in a timely manner and might better be categorized as relief activities. Preventive action can be far more effective. Given the significant continuing threat of drought, in October 1986, the WSWC completed and published a report, Western State Drought Management. The report summarizes information on fifteen western state programs obtained through a questionnaire on drought planning and response. It also includes a discussion of the appropriation doctrine as a dynamic state institutional mechanism for the efficient and equitable allocation of scarce water resources. Emergency state powers are also reviewed. A bibliography of drought related publications is included, along with a list of state agency contacts. Lastly, the report includes an appendix on federal drought assistance programs. Copies are available from the Council.

### **WGA Water Efficiency Work Group**

Pursuant to a resolution adopted by the Western Governors' Association (WGA), a Water Efficiency Working Group was established, which included representatives of the WGA, WSWC, and the Department of Interior, to consult widely with western water interests to identify steps to facilitate voluntary water transfers and other needed changes and to develop recommendations for changes in law and practices at the federal, state, and local levels. The first meeting of the working group was held in Denver, Colorado on September 18, 1986. Governor Sinner of North Dakota chaired the meeting, and he emphasized his commitment to pursue the purposes of the work group as expressed by the Governors' resolution. Specifically, he hoped the working group's product would be immediately usable by the governors in evaluating ways in which water efficiency could be enhanced. All three WSWC representatives were in attendance at the first meeting, namely: Dee Hansen, Jack Acord, and Dave Kennedy. (Roland Westergard of Nevada was appointed as an alternate representative.) D. Craig Bell, WSWC Executive Director, also attended. Together with representatives of WGA and the Department of Interior, it was concluded the working group should concentrate on water transfers. It was also decided the best approach would be to examine several case studies of transfers, or attempted transfers, and identify the policy issues presented by these case studies. These issues could then be further analyzed by the group and recommended options could be identified for consideration by policymakers. Consistent with this work plan, WSWC representatives and staff were given several assignments. Subsequent meetings of the working group were held on October 17, and November 12. A report was made to the governors on the progress of the working group, and a report by the group will be submitted to the governors at their annual meeting in July of 1987.

### **Ad Hoc Group on Indian Water Rights**

During the year, members of the Ad Hoc Group on Indian Water Rights invited the Council to designate a representative to participate in the meetings of the group. The Council's Executive Committee determined that Craig Bell, as Executive Director, should represent the Council. The group was formed through the initial efforts of the Western Regional Council, an organization representing

several major business interests in the West, which first established a relationship with representatives of Indian tribes and later the Western Governors' Association to: (1) identify Indian water claims which offer a realistic chance of settlement; (2) promote the settlement of Indian water right claims by encouraging negotiations; and (3) emphasize to the federal government its obligations to both Indian and non-Indian interests if there are to be any settlements at all. Several meetings of the group have been held. Most recently, discussions have focused on the possibility of changes in applicable laws and regulations to facilitate utilization of the Reclamation Fund for the construction of Indian water projects as part of comprehensive settlements of outstanding Indian water right claims. Newly elected Governor Sullivan of Wyoming has agreed to serve as the lead governor on the subject of Indian water rights.

### **Safe Drinking Water Act**

In June of 1986, President Reagan signed into law legislation reauthorizing the Safe Drinking Water Act (SDWA). The Council passed a resolution regarding the SDWA reauthorization in 1985. The new law will require EPA to set standards for approximately 80 potential drinking water contaminants within three years of its passage. Some water utilities may be forced to install new and expensive treatment technologies in order to meet these standards. Utilities will also be required to disinfect all drinking water and filter all drinking water supplies from surface water sources. Further, the new law will encourage states, through federal grants, to formulate "wellhead" protection programs to prevent surface activities (above wellhead areas) which may lead to drinking water contamination. To qualify for federal grants, state programs must be approved by EPA. Commenting on the new law, Larry Jensen, EPA Assistant Administrator for Water, said, "Congress has sent a clear signal that the people of this Nation are concerned about their drinking water. Solutions to drinking water challenges require that states continue to be intricately involved in drinking water regulations. We look forward to strengthening our already good relationship with the states as we implement these amendments."

### **Corps Omnibus Bill**

On November 17, 1986, the President signed a \$16 billion omnibus Corps authorization bill (H.R. 6; P.L. 99-662). Assistant Secretary of the Army for Civil Works, Robert Dawson, referred to the bill as a new charter for responsive and responsible future federal water resource development. From a western perspective, the bill's new non-federal cost sharing and user fee requirements are important as a precedent which will help define future federal water policy. Increasing non-federal cost sharing has been viewed as an effective economic test of the need for a project and the sponsor's commitment. The WSWC has been actively involved with the cost sharing issue since the Carter Administration's white papers in 1978. During 1986, the Council refined its position on cost sharing, and other issues affected by the Corps omnibus legislation. The position was sent to all western congressmen and key legislative and administrative officials.

### **Newsletter**

In addition to these and other activities, the Council staff maintained its usual workload, which includes publication of the Council's weekly newsletter, Western States Water.

## RESOLUTIONS AND POSITIONS

The following are positions taken and resolutions passed by the Western States Water Council during 1986.

### TAX-EXEMPT FINANCING OF WATER PROJECTS

The Tax Reform Act of 1986 included various restrictions on tax-exempt bond financing in order to curb past abuses. The new law makes a distinction between "governmental" and "non-government" bonds. The latter include financing of many wastewater treatment and water supply projects, which will be subject to new volume caps on issuing bonds, privatization limits, restrictive arbitrage provisions and other changes. Overall these new restraints will make it more difficult and expensive for state and local governments to finance water and wastewater projects. Given the tremendous need for national infrastructure investment, compared to current annual expenditures (and reduced federal expenditures for water resource development, management and protection), the Council generally opposed the above tax reform measures as an additional obstacle for state and non-federal entities to overcome in addressing their growing investment needs through the use of financing from private capital markets.

*RESOLUTION*  
*of the*  
**WESTERN STATES WATER COUNCIL**  
*regarding*  
*Tax-Exempt Financing*  
*of*  
*Water Projects*  
*January 24, 1986*

*WHEREAS, the Congress and the Administration have proposed tax reforms which will significantly curtail tax-exempt financing; and*

*WHEREAS, the Congressional Budget Office has estimated necessary annual expenditures for national infrastructure needs to be \$57 billion annually through the year 2000 (while federal, state, and local sources have spent \$41 billion in FY84 for such needs); and*

*WHEREAS, direct federal expenditures for water resource development, flood control protection, and wastewater treatment have significantly declined for several years; and*

*WHEREAS, many water resource developments, flood control projects, and wastewater treatment facilities can only be undertaken as governmental functions for the benefit of the general public; and*

*WHEREAS, western states widely use tax-exempt debt financing instruments to meet their water resource development, flood control, and wastewater treatment needs and will, in light of reduced federal expenditures and infrastructure investment requirements, need to expand the use of financing from private capital markets;*

*NOW THEREFORE BE IT RESOLVED, that the Western States Water Council opposes any actions by the Congress and the Administration which would threaten state water resource programs by severely restricting the use of tax-exempt financing for water resource development, flood control, and wastewater treatment investments which benefit the general public.*

### **CORPS OMNIBUS AUTHORIZATION LEGISLATION - S. 1567 and H.R. 6**

After more than a decade of discussion over new federal water policies, the 99th Congress passed and the President signed the Water Resources Development Act of 1986. The law authorizes a number of new and continuing Army Corps of Engineer projects and programs. Some consider it a new "charter" for future federal water development and management. The law includes new non-federal cost sharing requirements and user fees which are intended as a "market test" of project or program need, as well as a means of reducing federal expenditures, given the growing federal budget deficit. The new requirements are only partially consistent with the seven basic principles enumerated in the following position. With respect to dam safety, the Council supported federal aid for state administrative programs, which was included in the Act. However, the Council also strongly supported House provisions for federal aid to repair or replace unsafe non-federal dams. These were dropped due to the Administration's opposition. The Council also supported language, included in the law, outlining repayment policies when storage in federal reservoirs is reallocated to water supply. This section restates a previous Council position adopted on October 11, 1985, in Spokane, Washington. The Council supported intergovernmental coordination and planning, but took no position with respect to House provisions to restructure and revive the defunct Water Resources Council as a new National Board on Water Resources Policy. This measure was dropped from the Act, again due to the Administration's opposition. The Council also supported a minor provision, included in the law, which defines fish and wildlife enhancement activities related to anadromous fish or endangered species as a national benefit and a non-reimbursable project cost. Though not a comprehensive review of the Act, the following position on the next page describes those issues, particularly non-federal cost sharing, on which the Western States Water Council was able to reach a consensus, after extended discussion over several years.

*POSITION*  
*of the*  
**WESTERN STATES WATER COUNCIL**  
*on*  
*Corps Omnibus Authorization Legislation*  
*S. 1567 and H.R. 6*  
*January 24, 1986*

*Dear Senator or Representative:*

*As the House has overwhelmingly approved what appears will be the first major omnibus Corps authorization bill in over a decade (H.R. 6) and the Senate will soon consider similar legislation (S. 1567), the Western States Water Council would like to take this opportunity to advise you as to our position on several provisions of this important and complex legislation. While the Council has not adopted any resolution favoring or opposing either bill, we have in the past addressed many water resource issues which will be affected by selected provisions. The following is a brief discussion of our major areas of interest. We hope you will carefully consider the Council's position.*

*COST SHARING*

*Several provisions in both bills would change existing non-federal cost sharing requirements on federal projects. Since 1977 and the Carter Administration's issue papers, federal proposals have largely ignored the extent to which states and other non-federal entities have long shared in the cost of national water development and protection, including participation in federal projects. Still, the Western States Water Council recognizes federal budgetary constraints, and is not opposed to the principle of equitable cost sharing. Indeed western states expenditures for water development are growing. However, under certain circumstances the federal government continues to be the most logical and appropriate source of financing. Water development needs continue to grow and new federal water project starts must continue.*

*The Western States Water Council believes that new non-federal cost sharing and financing requirements should be founded upon certain basic principles.*

*(1) Any new policies should be reasonably consistent across federal agency programs and projects with similar purposes.*

*(2) New cost sharing requirements must consider available non-federal financial resources and institutional arrangements.*

*(3) Any policy changes must recognize and fairly consider past federal commitments.*

*(4) Federal water project funding must be timely and consistent.*

*(5) Increases in non-federal financing should be limited to vendible project outputs.*

*(6) Non-federal interests should share in project revenues in proportion to the non-federal financing of the project purpose generating the revenue.*

*(7) Federal incentives for non-federal capital formation should be preserved and expanded to include a federal bond guarantee or insurance fund.*



*New cost sharing requirements under Title VII of S. 1567 and various sections of H.R. 6 are expressed as a percentage of project costs allocated by purpose. This should provide greater consistency, but may or may not represent an equitable federal/non-federal distribution of costs. The future success of federal water development programs will largely depend on greater cooperation with the states and other non-federal interests in the planning, design, construction, and allocation of costs for federal projects. Sections 211 of S. 1567 and 1165 of H.R. 6 appropriately recognize the fact that state appropriations under long-term federal/state cost sharing agreements are contingent on future state legislative action. Similarly, Sections 208 and 701(g) of S. 1567 and 301(h) and 308 of H.R. 6 allow non-federal interests credit for compatible work included in certain present and future federal projects. Section 701(h) takes into account a sponsor's ability-to-pay in determining cost sharing requirements. These provisions facilitate federal/non-federal cooperation.*

### DAM SAFETY

*The Council has carefully considered federal dam safety initiatives since 1972. In 1983, the Council testified before the Senate Environment and Public Works' Water Resources Subcommittee on federal legislation, sponsored by Senator James McClure (R-ID), to initiate a new non-federal dam safety program. In part, the bill has been incorporated in S. 1567 as Title IV. The Council supports many of the concepts, but has suggested amendments.*

*All of our member states have ongoing dam safety programs, and we strongly oppose the imposition of specific federal technical criteria on state programs as a condition of certification to be eligible for program grants. Specifically, the Council supports inspection of dams "with reasonable regularity." The Council also agrees that a state should have authority to require remedial action to maintain the integrity of any dam. Any federal/state program should be limited to those dams subject to a state's jurisdiction, and that jurisdiction should clearly be extended to include federal dams in the state. The Council has strongly supported provision for federal liability insurance in states with approved programs, and a federal revolving fund for the repair or replacement of unsafe non-federal dams. Both of these provisions have been dropped from the Senate bill, though Section 1109(b) of H.R. 6 authorizes the Corps to undertake necessary non-federal dam safety work on a reimbursable basis. We strongly support such federal financial assistance where non-federal dam owners cannot otherwise finance recommended safety modifications.*

### ENDANGERED SPECIES

*Since 1973, the Western States Water Council has struggled with conflicts involving western water resources management and the conservation of endangered species. In part, these problems are due to the ambiguity which exists with respect to the standard for requiring appropriate mitigation and enhancement measures and fixing responsibility for such actions by federal, state, and local agencies and project sponsors. Section 224(e) of S. 1567 would define as a federal cost recommended fish and wildlife enhancement activities determined to be of national benefit "including benefits to species . . . of national economic importance, species that are subject to treaties or international convention..., anadromous fish, or . . . species that have been listed as threatened or endangered . . ." This would apply to new Corps construction. Such a federal policy should be extended to other federal agencies.*

## FEDERAL WATER PRICING POLICIES

*This past October, the Western States Water Council addressed federal pricing policies when storage is reallocated to water supply. The Council's position states: "When storage space is reallocated to water supply storage at a federal reservoir, non-federal interests should not be required to pay more than the proportionate share of the project's original cost, plus interest if required in connection with the original project purpose at the rate in effect at the time when the project was constructed, as provided for by the Water Supply Act of 1958."*

*Compatible language was included by the House in its report (H.Rpt 99-195, p. 59) on the Energy and Water Development Appropriations Act of 1986 (H.R. 2959, P.L. 99-141). The Senate and Conference reports do not mention this issue. Thus, the House directions, under general rules of construction, are what Congress expects with regard to pricing policy. However, perhaps to further clarify Congressional intent, Section 628(d) of H.R. 6 includes almost identical language. It prohibits any pricing policy, except as described above, until completion of a study relating to inclusion of storage for present and future water supply in Corps projects. The Council supports this provision.*

## WATER RESOURCES POLICY ACT

*Title XII of H.R. 6 would create a National Board on Water Resources Policy. It resembles the defunct Water Resources Council, which the Western States Water Council worked closely with since its inception in 1965. We have deliberated at some length, without resolution, on the question of an appropriate means by which a reasonable degree of consistency and coordination might be achieved among the planning activities and programs of the major federal water agencies. However, there is agreement that some such mechanism is desirable, and that the Water Resources Council fell short of achieving that purpose. Further, the Council has endlessly called for greater cooperation and consideration of states' views in implementing federal water resources programs. With respect to related federal program grants, dependable and continuous funding is far more important to the states than the amount itself.*

*While not a comprehensive discussion of all potential concerns of the Western States Water Council, the above represents major issues on which the Council has a current position. I hope that our views will be of use to you as further action is taken on omnibus Corps authorization legislation and issues of national water resource policy.*

**EPA'S DRAFT POLICY FOR CONSTRUCTION GRANT  
FUNDING FOR CERTAIN EXISTING TRICKLING  
FILTER AND WASTE STABILIZATION POND FACILITIES**

The Clean Water Act's construction grant program provides funds to states to assist with the construction of wastewater treatment facilities. On December 3, 1985, EPA proposed a draft policy which would have limited funding for existing trickling filters and waste stabilization ponds to those which met criteria for treatment established by EPA. The policy appeared to exclude facilities designed to meet stricter criteria established by individual states. Under the policy in force when the December 3, 1985, draft was issued, facilities designed to meet the stricter standards were eligible for funding. The Council responded to the draft EPA policy with the following position statement.

*POSITION*  
*of the*  
**WESTERN STATES WATER COUNCIL**  
*concerning the*  
*EPA December 3, 1985, Draft*  
*"Policy for Construction Grant Funding*  
*for Certain Existing Trickling Filter*  
*and Waste Stabilization Pond Facilities"*  
*January 24, 1986*

*WHEREAS, EPA is proposing a policy to limit construction grant funding for projects involving trickling filters and waste stabilization ponds to only that work necessary to produce an effluent of 45 mg/l BOD and 45 mg/l total suspended solids (or in some cases, even lower quality effluent unless needed to meet water quality standards); and*

*WHEREAS, EPA is currently funding projects to meet standards of 30 mg/l BOD and 30 mg/l total dissolved solids; and*

*WHEREAS, such a change in funding policy would represent a renigging on EPA's earlier promise that allowing relaxation of secondary treatment standards in certain cases would not result in a change in EPA's funding policy;*

*NOW THEREFORE BE IT RESOLVED, that the Western States Water Council requests EPA to drop plans to adopt this policy, and to allow states to continue to make judgments on project funding within the framework of the current EPA construction grant regulations.*

## U.S. ARMY CORPS OF ENGINEERS WATER FEE POLICY

During 1986, an issue arose in Idaho over Army Corps of Engineers water pricing policies and state water rights. The City of Orofino entered discussions with the Corps aimed at tapping a new pipeline to be constructed by the Corps from the reservoir behind Dworshak Dam to a fish hatchery. While the City agreed to pay the incremental cost of enlarging the pipeline to improve its municipal water supply, the Corps insisted the City also reimburse the federal government for the "loss of power," which would result given the amount of water diverted by the city and thus bypassing the dam's turbines. The city and State of Idaho vigorously objected, pointing out the Corps had no state water right upon which to base a claim for the foregone power revenue. The Corps does not recognize the need for a state water right, and defended its proposed charges as simply a prudent business practice authorized by federal administrative statute. The Western States Water Council extensively discussed the potential ramifications for any upstream water use and opposed the Corps policy. Of note, the U.S. Bureau of Reclamation maintains an almost identical water pricing policy with respect to foregone power revenues. However, the Bureau has sought and received state water rights which are protected under state law.

### RESOLUTION

*of the*

### WESTERN STATES WATER COUNCIL

*regarding*

*U.S. Army Corps of Engineers Water Fee Policy*

*April 11, 1986*

*WHEREAS, the U.S. Army Corps of Engineers has agreed to allow the City of Orofino, Idaho, to receive water from Dworshak Dam only if the city pays for use of the project based on the "loss of power" production resulting from its water consumption; and*

*WHEREAS, the Corps does not own or control the water which it intends to charge the city for using, for the Corps has neither a right to the water based on state law nor a "federal reserved right" under the reserved rights doctrine; and*

*WHEREAS, the Corps' action is contrary to a longstanding and uninterrupted federal policy of deference to state water right administration systems; and*

*WHEREAS, Corps or Bureau of Reclamation dam and hydropower facilities are located in river basins throughout the western United States and use of water upstream from these dams necessarily requires incidental reduction of hydropower generation capacity; and*

*WHEREAS, condoning the practice of using water including charges therefore, which is not covered by a recognized water right, would seriously disrupt the allocation and management of water and the orderly administration of state water laws; and*

*WHEREAS, charges by federal agencies for the use of federal reservoirs must be based only upon the benefits conferred and the services rendered by virtue of the federal government having invested in the construction of such reservoirs;*

*NOW THEREFORE BE IT RESOLVED, the Western States Water Council opposes and urges the Corps of Engineers to abandon its policy of using "loss of power" as a basis of charging the City of Orofino for obtaining a water supply from Dworshak Dam; and*

*BE IT FURTHER RESOLVED that the Western States Water Council and its member states urge the Administration to renounce and reverse any similar federal fees pertaining to its facilities; and*

*BE IT FURTHER RESOLVED that the federal agencies, including the Corps of Engineers, recognize the requirement that withdrawals from federal reservoirs must be authorized under state water rights law.*

## NEGOTIATED SETTLEMENT OF INDIAN WATER RIGHTS DISPUTES

Those familiar with the management of western water resources are aware of the challenges caused by the existence of largely unquantified Indian reserved water rights. The "reservation of water" doctrine was court-created, and its parameters have been judicially defined. Recently, there have been efforts by a number of federal, state, and tribal representatives to move away from the judicial arena and attempt to settle Indian water rights claims through negotiation. This resolution endorses the policy of encouraging negotiated settlement of Indian water right disputes.

### RESOLUTION

*of the*

### WESTERN STATES WATER COUNCIL

*supporting*

*Negotiated Settlement of Indian Water Rights Disputes*

*April 11, 1986*

*WHEREAS, Indian tribes have mostly unquantified and unused reserved water rights which, if put to beneficial use, could displace existing uses of water and significantly impair investments and local and regional economies; and*

*WHEREAS, the public interest and sound public policy require the resolution of Indian water rights disputes in a manner that is least disruptive to existing uses of water; and*

*WHEREAS, the United States has developed many major water projects that compete for use of waters claimed by Indians and is therefore responsible to both Indians and non-Indians to assist in resolving conflicts between them for such waters; and*

*WHEREAS, comprehensive judicial decrees are often necessary to quantify and prioritize water rights, but protracted litigation is often complex, expensive, and time-consuming; and*

*WHEREAS, it is highly desirable to develop procedures which achieve quantifications fairly, efficiently, and with the least cost; and*

*WHEREAS, negotiated quantification of claims is such a process; and*

*WHEREAS, the advantages of negotiated settlements include: (i) the ability to be flexible and to tailor solutions to the unique circumstances of each situation; (ii) the ability to promote conservation and sound water management practices; and (iii) the ability to establish the basis for cooperative partnerships between Indian and non-Indian communities to replace the adversarial and often hostile relationships that currently exist; and*

*WHEREAS, negotiation of certain claims is more likely to be successful if coupled with "physical solutions," primarily development of federal water projects and improved water delivery and application techniques; and*

*WHEREAS, several water right settlement bills have passed or are pending before the Congress; and*

*WHEREAS, Indian tribes and non-Indian interests are currently involved in water rights settlement negotiations in several western states which, if successfully concluded, will probably require the enactment of federal legislation and in some cases the appropriation of funds;*

*NOW THEREFORE BE IT RESOLVED, that the Western States Water Council endorses the policy of encouraging negotiated settlements of Indian water rights disputes based on its belief that in many cases such negotiated settlements offer the best possible solution to a critical problem that affects all of the Western States; and*

*BE IT FURTHER RESOLVED, that the Western States Water Council urges the United States, as the trustee of Indians and Indian tribes, to assert strong leadership in the promotion of quantification of claims in the context of federally financed solutions; and*

*BE IT FURTHER RESOLVED, that the Western States Water Council calls upon the Congress, the President, and the Secretary of the Interior to promote and encourage negotiated settlements of Indian water rights disputes and to assist in the implementation of fair and equitable settlements in a spirit that generously recognizes that the federal government has unique responsibilities and commitments to Indian tribes, as well as important obligations to holders of vested water rights under state law.*

## FEDERAL GROUND WATER QUALITY LEGISLATION

Management and protection of ground water resources have traditionally been state prerogatives. In the arid West, ground water resources are particularly important. Under state law, constitutionally recognized property interests to use ground water may be created. Also, state laws and programs protect ground water from contamination. The recent interest at the national level in new, generic federal ground water legislation led the Council to pass the following resolution. It very briefly outlines the Council's views on state/federal roles as they relate to ground water management. However, the Council intends to draft a more detailed, formal resolution, possibly in the form of proposed federal ground water legislation.

*WESTERN STATES WATER COUNCIL  
Statement of Principles Regarding  
Federal Ground Water Quality Legislation  
April 11, 1986*

*The Western States Water Council supports the following principles relating to federal ground water quality legislation.*

**Section 1. Policy.**

- A. Ground water quality protection is the primary responsibility of the states.*
- B. The federal role should be one of support and back-up.*

**Section 2. Ground Water Quality Protection - Criteria and Standards.**

- A. States shall have the responsibility to set standards of water quality, based upon beneficial uses - present and future.*
- B. State standards shall be approved as federal standards unless they do not meet national public health requirements.*
- C. Federal standards shall be set within a state only if a state does not set standards as provided in A. above and only as they relate to ground water quality standards for the protection of public health.*

**Section 3. Ground Water Quality Protection - Strategy and Mechanisms.**

- A. States shall establish strategies and mechanisms that are appropriate for protecting ground water within their borders.*

**Section 4. Federal Role.**

- A. Federal actions shall be designed to be in support of and in accord with state programs of sections 2.A. and B. and 3.A.*
- B. Federal funds, with few strings, shall be provided to states for development and implementation of their ground water quality programs.*



- C. Federal technical assistance and training of personnel in state ground water management programs shall be provided.*
- D. Notwithstanding any provisions of any federal statute (regulatory or remedial), e.g., RCRA, CERCLA, CWA, SDWA, TSCA, except in emergency situations, no federal agency shall take any action pertaining to ground water protection unless it first obtains a certification from a state that:*
- 1) The federal action is consistent with state objectives, standards, and strategies for protection of its ground water; and*
  - 2) The federal action will not duplicate regulatory or remedial actions of a state, actively pursued or to be pursued within the reasonable, foreseeable future.*

## SEQUESTRATION OF USGS FEDERAL/STATE COOPERATIVE PROGRAM FUNDS

Passage of the Gramm-Rudman-Hollings Deficit Reduction Act resulted in a disproportionate impact on USGS federal/state cooperative programs for FY86. The Office of Management and Budget and U.S. Treasury interpreted the Act as applying to specific line-item accounts in the federal budget. In the case of certain USGS programs, this includes non-federal cooperator funds. The unacceptable result in such instances would be a federal sequestration of state, local and private funds, which would be deposited in the U.S. Treasury. The issue was brought before the General Accounting Office comptroller, although constitutional questions were raised over his authority to resolve the problem. In the resolution below, the Council urged the Comptroller General to issue a ruling exempting non-federal funding sources from Gramm-Rudman-Hollings. Further, if necessary, the Council urged Congress to take legislative action to reverse the OMB/Treasury interpretation and protect non-federal funds. In FY86, the USGS reprogrammed federal money to cover the additional sequestration. Subsequently, the Comptroller General has ruled that sequestration of the federal share of cooperative funds is proper, but that the sequestration of matching non-federal funds is not necessary.

### *RESOLUTION*

*of the*

### *WESTERN STATES WATER COUNCIL*

*Regarding*

*Sequestration of USGS Federal/State Cooperative Program Funds*

*Under Gramm-Rudman-Hollings Legislation*

*October 10, 1986*

*WHEREAS, Gramm-Rudman-Hollings deficit reduction measures are designed to eliminate the gap between federal expenditures and federal revenues; and*

*WHEREAS, this goal is accomplished by reducing all federal expenditures by a certain percentage in each year that objectives for reducing those expenditures are otherwise unmet; and*

*WHEREAS, some federal agencies have cooperative programs with states and spend state funds to perform certain functions in carrying out these programs, one such being the United States Geological Survey (USGS) Federal/State Cooperative program; and*

*WHEREAS, an arbitrary application of the Gramm-Rudman provisions by the Comptroller General to all federal agency expenditures, including state funds transferred to federal agencies, results in either using state funds to reduce the federal deficit - or imposes an inordinate reduction in associated programs of the federal agency; and*

*WHEREAS, such an interpretation is contrary to Congressional intent in enacting Gramm-Rudman-Hollings legislation and violates principles of federalism embodied in the Constitution;*

*NOW THEREFORE BE IT RESOLVED that the Western States Water Council urge the Comptroller General to issue a ruling excluding from the application of Gramm-Rudman-Hollings deficit reduction measures non-federal sources of funding expended by federal agencies' programs, such as the USGS/State Cooperative program; and*

*BE IT FURTHER RESOLVED that, if such a ruling is not made by the Comptroller General, the Western States Water Council request Congress to specifically exclude such non-federal sources of funding from the operation of the Gramm-Rudman-Hollings Deficit Control Act.*

## SETTLEMENT OF WATER RIGHT CLAIMS THROUGH GENERAL ADJUDICATION

General adjudication proceedings, or other similar actions, are carried out in each western state to determine rights to use water resources. The states have had to develop great expertise to orchestrate these proceedings, some of which involve complex facts and thousands of defendants. The level of this expertise varies, to some degree, from state to state. The resolution below encourages the settlement of water right claims through the general water right adjudication process and urges member states to share information which will help better streamline their adjudication proceedings.

### RESOLUTION

*of the*

### WESTERN STATES WATER COUNCIL

*Supporting*

*Settlement of Water Right Claims Through General Adjudication*

*October 10, 1986*

*WHEREAS, states have the responsibility to manage and allocate water in the West and, as an essential element thereof, to determine and define water rights in state proceedings; and*

*WHEREAS, in order to properly regulate and administer water resources and rationally plan for further allocation, all rights to water from a given source must be quantified; and*

*WHEREAS, many rights to use water throughout the West remain unquantified; and*

*WHEREAS, all states have in place general adjudication procedures to accomplish quantification of water rights and most states are actively implementing these procedures; and*

*WHEREAS, general adjudication procedures should be effective, efficient and, where possible, include the least costly methods of carrying out the adjudications; and*

*WHEREAS, new and improved techniques for implementation of general adjudications, including, for example, revised procedural forms and procedures and, at times, use of physical solutions to bring about quantification by settlement as part of the general adjudication, are being utilized by various member states; and*

*WHEREAS, such techniques may make general adjudications more efficient, effective, and less costly;*

*NOW THEREFORE BE IT RESOLVED that the Western States Water Council urges its member states to consider and implement techniques and procedures that will encourage or continue efficient and effective general adjudications of water rights;*

*WHEREAS, in order BE IT FURTHER RESOLVED that the Western States Water Council endorses the policy of encouraging the settlement of water right claims by negotiation as part of the general adjudication process where such an approach is appropriate; and*

*BE IT FURTHER RESOLVED that the Western States Water Council calls upon each of its member states to share with its sisters, those general adjudication procedures that have improved the implementation of its general adjudication programs.*

## **U.S. FISH AND WILDLIFE SERVICE AND DONATION OF PERMANENT NON-DEVELOPMENT EASEMENTS**

During 1986, the Little Sandy Hunting and Fishing Club on the Sabine River in Texas offered to donate to the U.S. Fish and Wildlife Service a permanent, non-development easement on over 3,800 acres of bottomland hardwood waterfowl wintering and breeding habitat in Wood County. The Texas Water Development Board, Texas Water Commission, and Sabine River Authority opposed the proposed easement as a federal impediment to development of the Waters Bluff Reservoir, which the Authority planned to construct to serve municipal water supply needs of the area through 2030. The reservoir would inundate some 40,000 acres, but advocates argued it will be necessary to meet future water needs of a growing population. The Fish and Wildlife Service, for its part, has designated hardwood bottomlands for priority acquisition in order to protect waterfowl and wildlife habitat. It has identified 62 separate bottomland areas covering some 300,000 acres. In Texas, some 15 reservoir sites could be affected. The interest of the hunting and fishing club is obvious. The club would retain hunting rights, and reportedly takes 1,000 to 1,500 ducks a year. Given the potential westwide implications of what was viewed by Texas officials as a precedent setting case, the Western States Water Council asked the Fish and Wildlife Service to delay action on the proposal pending further consideration of potential impacts. In response to the letter on the opposite page, Interior Secretary Donald Hodel and Michael J. Spear, Region II Director, U.S. Fish and Wildlife Service, responded that a deadline for acceptance of the easement precluded delaying a decision, but that an extended public comment period should insure all concerns would be given adequate consideration. The donation was later accepted.



WESTERN STATES WATER COUNCIL

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

October 15, 1986

Mr. Michael J. Spear, Regional Director  
Region II  
U.S. Fish and Wildlife Service  
500 Gold Avenue, S.W.  
Albuquerque, New Mexico 87103

Dear Mr. Spear:

I am writing on behalf of the Western States Water Council, an organization comprised of representatives appointed by the governors of fifteen western states. The Council considers and addresses a broad range of water policy issues. At our most recent meetings in Billings, Montana, on October 9-10, the Council directed me to write a letter advising you of the Council's interest in a matter now before you.

We understand that a private hunting club in Texas has proposed to donate to the Fish and Wildlife Service a permanent easement for utilization of their land as a national wildlife refuge, while retaining exclusive hunting privileges. If this donation is accepted, we understand that it will prevent the development of the Waters Bluff Reservoir site, now in the process of being added to the Texas State Water Plan. We understand further that this proposal is now in the NEPA review process.

The purpose of this letter is to request that you defer any action in response to this proposal until the Council has had an opportunity to consider its potential westwide implications. In this regard, it is the expectation that the Water Resources Committee of the Council will review the matter and prepare recommendations for a Council response at the next quarterly meetings of the Council in mid-January.

We appreciate your consideration of our request and hope that you can accommodate us, so that we may have the opportunity to provide you with our views regarding this matter.

Sincerely,

D. Craig Bell  
Executive Director

cc: Frank Dunkle, Director, U.S. Fish and Wildlife Service

# INTERNAL POLICY STATEMENTS

## REIMBURSEMENT OF TRAVEL EXPENSES FOR COUNCIL GUESTS

During the course of organizing recent Council meetings, the question arose as to an appropriate policy regarding reimbursement of travel expenses for Council guests. In order to guide the Management Subcommittee in making determinations, the Executive Committee decided that a formal policy should be developed and adopted by the Council. While the general rule will continue to be that the Council will not reimburse travel expenses for Council guests, exceptions to this rule are set forth in the following policy.

### *POLICY FOR REIMBURSEMENT OF TRAVEL EXPENSES FOR COUNCIL GUESTS*

*April 1986*

#### *Preface*

*The Council traditionally has not reimbursed invited speakers and guests for travel expenses associated with attending and participating in Council meetings. Most of those invited by the Council have been representatives of federal agencies and Congress, have had a direct interest in the issues discussed, and have benefited by such interchanges with Council members. Thus, the rationale exists that, because such individuals directly benefit from their attendance and participation in Council meetings, payment for associated travel expenses is appropriately the responsibility of the federal agency or Congressional committee which they represent.*

*This rationale has also been applicable in situations where individuals have represented interest groups and private entities. For example, representatives of various investment bankers have been invited to Council meetings to discuss prospects for state and local financing of water projects, and federal proposals which will affect states' ability to accomplish such financing. Since such investment bankers are directly involved in facilitating such financing as part of their business, it has been deemed appropriate that such investment bankers underwrite the expenses of their representatives to attend and participate in Council meetings.*

*However, a few exceptions to this policy have been made in the past where an individual offered a unique perspective and where the reciprocal benefit offered to the individual or the group he or she represented was not considered sufficient to justify that individual or group paying for the associated travel expenses.*

*It is the desire of the Council to enunciate a policy for evaluating future requests for reimbursement of travel expenses. Pursuant to this desire, the Council directed the Management Subcommittee to propose a policy for consideration by the Council and to outline the procedures the Council would utilize in cases where such reimbursement was deemed to be appropriate.*



## Policy

*The following criteria will be utilized by the Management Subcommittee to evaluate requests for reimbursement of travel expenses for individuals invited to attend and participate in Council meetings:*

*1. Given the mutual benefits that generally accrue when invited guests participate in Council meetings, reimbursement for their associated travel expenses will not be made except when the conditions described in Item 2 are met.*

*2. Reimbursement of expenses shall only be considered for individuals who offer a unique perspective, unavailable from alternative speakers, as to the issues to be addressed, who do not receive a reciprocal benefit from their attendance at Council meetings, and who must be reimbursed if they are to attend.*

*3. When reimbursement seems justified, consideration should be given to alternatives which may be less expensive; for example, postponing an individual's participation until the next quarterly meeting at a more accessible and therefore less expensive location to which to travel.*

*4. In making its determination, the Management Subcommittee will consider the request within the framework of the Council's budget for travel. It will not honor a request if to do so would result in exceeding the authorized Council budget for travel.*

## Procedures

*1. A request for reimbursement of travel expenses will be forwarded for consideration to the Management Subcommittee of the Executive Committee.*

*2. The request must be accompanied by a listing of the approximate amount of the expenses that would be reimbursed.*

*3. Travel expenses that may be reimbursed include only the transportation fare and the lodging attendant to the necessary travel to attend the Council meetings. The specific arrangements for travel will be agreed upon in advance by the individual and WSWC staff, with the staff making the appropriate reservations and travel arrangements, and where appropriate, purchasing tickets and other hotel accommodations directly on behalf of the Council for such individual.*

## EXECUTIVE NOMINATIONS AND SENATE CONFIRMATION OF FEDERAL OFFICIALS

During Senate consideration of the nomination of Robert Dawson as Assistant Secretary of the Army for Civil Works, Mr. Dawson's position with respect to implementation of Section 404 of the Clean Water Act came under criticism. In light of this controversy, the Council decided to communicate its position with regard to the Section 404 program. While the Council explained that its position did not constitute an endorsement relative to the nomination of Mr. Dawson, it did feel it necessary to clarify its position with respect to the substantive issue in question. At the Council meeting which followed these activities, the Executive Committee decided that a formal policy should be adopted to guide WSWC officers and staff in activities with respect to nominees for federal office. The following policy was adopted to assure that the Council avoids perceptions of political association or affiliation, but rather is seen in its appropriate role of advancing non-partisan interests of western water development and management.

### *POLICY WITH REGARD TO NOMINATIONS TO FEDERAL OFFICES*

*April 1986*

*The Western States Water Council has endeavored throughout its existence to represent western state interests with respect to a broad range of water policy issues without regard to their political association or affiliation.*

*Because the Council consists of representatives appointed by Governors representing both major political parties, political association or affiliation has not been perceived as an appropriate role for the Council, but rather to advance non-partisan interests of western water development and management.*

*For this reason, the Council has never taken a position with respect to the nomination of an individual to a federal office. Inasmuch as the previously stated objectives continue to be uppermost to the Council, the Council wishes to now enunciate a policy respecting nominations to federal office consistent with these objectives.*

*It will be the policy of the Western States Water Council not to comment on the nomination of any individual to federal office, inasmuch as such a position regarding a political appointment would be inimical to the above stated objectives of the Council.*

*If officers or the staff of the Council are requested to take such a position, they will decline to do so by explaining the above policy. However, staff or officers with the authorization of the Management Subcommittee of the Council may explain, submit, or otherwise communicate the position of the Council relative to any substantive issue of concern, even though the issue is raised in connection with the consideration of a nomination to federal office. In so doing, the staff or officers will explain that such action does not constitute a position relative to the nomination of the individual, but rather to explain the position of the Council relative to the substantive issue in question.*

## BUDGET AND FINANCE

At the quarterly meeting held April 10, 1986, in Denver, Colorado, the Executive Committee approved a budget for FY86/87 of \$294,600. A previously approved dues schedule called for a yearly assessment of \$19,500 per state for FY86/87.

The audit report for FY85/86, prepared by the firm of Hansen, Barnett and Maxwell, was presented to the Executive Committee by the Executive Director at the annual meeting in July at Ashland, Oregon. The 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 the financial statement, with the explanatory notes below, are reflected on the following pages.

### NOTES—CAPITAL LEASE OBLIGATIONS

The Council renewed its lease on the office space for a three-year period beginning January 1, 1986. Currently, the monthly rentals are \$1,533 including current adjustments and lessee paid taxes. The lease contains a provision for automatic renewal unless otherwise requested by the Council after notification from the Lessor.

On October 29, 1985, the Council entered into a capital lease with a leasing company for their phone system. The lease term is four years, with monthly lease payments of \$107.85. At the end of the lease, the Council has the option of purchasing the phone system for \$1.00. The following is a schedule by years of the future minimum lease payments together with the present value of the minimum lease payments:

1986	\$1,079
1987	1,294
1988	1,294
1989	1,294
1990	216
Total minimum payments required	5,177
Less: Amount representing interest	1,681
Present value of minimum lease payments	\$3,496

HANSEN, BARNETT & MAXWELL

A PROFESSIONAL CORPORATION

CERTIFIED PUBLIC ACCOUNTANTS

345 EAST BROADWAY  
SALT LAKE CITY, UTAH  
84111

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

We have examined the combined balance sheet - general fund and account groups of the Western States Water Council as of June 30, 1986 and the related general fund statement of revenues and expenditures and changes in fund balance - budget and actual for the year 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 financial statements referred to above present fairly the financial position of the Western States Water Council at June 30, 1986 and the results of its operations for the year then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Our examination was made for the purpose of forming an opinion on the financial statements taken as a whole. The schedule of changes in the general fixed assets is presented for the purpose of additional analysis and is not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in the examination of the financial statements and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

July 9, 1986

Hansen, Barnett & Maxwell

**WESTERN STATES WATER COUNCIL**

**General Fund**

**Statement of Revenues and Expenditures and  
Changes in Fund Balance - Budget and Actual  
For The Year Ended June 30, 1986**

	<u>Budget 1986</u>	<u>Actual June 30, 1986</u>	<u>Variance Favorable (Un- Favorable) 1986</u>	<u>Actual June 30, 1985 (For Comparison Only)</u>
<b>REVENUES</b>				
Member States' assessments . . . .	\$253,500	\$257,500	\$ 4,000	\$271,500
Other miscellaneous income . . . .	—	6,484	6,484	9,600
Interest income . . . . .	—	14,278	14,278	19,509
<b>Total Revenues</b> . . . . .	<u>253,500</u>	<u>278,262</u>	<u>24,762</u>	<u>300,609</u>
<b>EXPENDITURES</b>				
Salaries	147,000	145,792	1,208	142,272
Travel	26,000	25,191	809	21,375
Payroll taxes and employee benefits	39,400	38,226	1,174	39,820
Contract services	300	204	96	—
Printing and reproduction	24,000	23,950	50	22,077
Rent	20,000	18,390	1,610	19,286
Freight and postage	8,400	8,031	369	6,624
Telephone	5,500	4,818	682	5,644
Office furniture, fixtures, and equipment . . . . .	1,800	5,185	(3,385)	22,902
Office supplies . . . . .	3,800	3,806	(6)	4,579
Reports and publications . . . . .	3,000	2,774	226	2,871
Meetings and arrangements . . . .	1,500	1,405	95	1,055
Accounting . . . . .	1,400	1,375	25	1,356
Insurance . . . . .	800	490	310	729
Contingencies . . . . .	6,700	6,759	(59)	5,036
<b>Total Expenditures</b> . . . . .	<u>289,600</u>	<u>286,396</u>	<u>3,204</u>	<u>295,626</u>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES</b> . . . . .	(36,100)	(8,134)	27,966	4,983
<b>OTHER FINANCING SOURCES:</b>				
Capital Lease Obligation - Note . . . . .	—	3,496	3,496	—
<b>EXCESS (DEFICIENCY) OF REVENUES AND OTHER SOURCES OVER (UNDER) EXPENDITURES</b> . . . . .	(36,100)	(4,638)	31,462	—
<b>FUND BALANCE - BEGINNING OF YEAR</b> . . . . .	116,537	116,537	—	111,554
<b>FUND BALANCE - END OF YEAR</b> . . . . .	<u>\$ 80,437</u>	<u>\$111,899</u>	<u>\$31,462</u>	<u>\$116,537</u>

The accompanying notes are an integral part of these financial statements.

# COMMITTEE CHARTERS AND MEMBERS

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 the 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 chairperson, the chairperson, the vice-chairperson, 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 Chairperson and Vice-Chairperson 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 Chairperson, or by the Vice-Chairperson in the event the Chairperson 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

Esther C. Wunnicke - Alaska  
Kathy Ferris - Arizona  
David Kennedy - California  
David H. Getches - Colorado  
A. Kenneth Dunn - Idaho  
John E. Acord - Montana  
Roland D. Westergard - Nevada

S.E. Reynolds - New Mexico  
William H. Young - Oregon  
John T. Montford - Texas  
Dee C. Hansen - Utah  
Andrea Beatty Riniker - Washington  
George Christopulos - Wyoming



David H. Getches, David Kennedy, Roland D. Westergard, William H. Young,  
Dee C. Hansen, A. Kenneth Dunn, John E. Acord, J. William McDonald



### **Management Subcommittee**

J. William McDonald - Colorado - Chairperson  
Roland D. Westergard - Nevada  
Vice Chairperson  
John E. Acord - Montana  
Past Chairperson

Dee C. Hansen - Utah  
Secretary/Treasurer  
D. Craig Bell  
Executive Director



D. Craig Bell, Roland D. Westergard, John E. Acord, J. William McDonald

### **Water Management Symposium Subcommittee**

J. William McDonald - Colorado  
John E. Acord - Montana

David Kennedy - California

### **Water Policy Seminar Subcommittee**

Daivd Kennedy - California  
A. Kenneth Dunn - Idaho  
Dee C. Hansen - Utah

William H. Young - Oregon  
Philip Mutz - New Mexico

### **Council History Subcommittee**

Charles E. Nemir - Texas  
Robert W. Miller - California

Roland D. Westergard - Nevada

# 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

Kathy Ferris - Arizona - Chairperson  
Harold M. Brown - Alaska  
David Kennedy - California  
David H. Getches - Colorado  
Ray Rigby - Idaho  
Donald MacIntyre - Montana  
Roland D. Westergard - Nevada  
Charles DuMars - New Mexico  
George Proctor - Oregon  
John T. Montford - Texas  
Thorpe A. Waddingham - Utah  
Charles B. Roe, Jr. - Washington

## Joint Ground Water Subcommittee

Charles B. Roe, Jr. - Washington - Chairperson  
Gary Broetzman - Colorado  
David G. Kelley - California  
Charles E. Nemir - Texas  
George Proctor - Oregon

## Migratory Bird Treaty Act Subcommittee

George Proctor - Oregon - Chairperson  
Charles DuMars - New Mexico  
David Kennedy - California

## Reserved Rights Subcommittee

George Proctor - Oregon - Chairperson  
Kathy Ferris - Arizona  
Roland D. Westergard - Nevada  
Roderick Walston - California  
Charles B. Roe, Jr. - Washington



David H. Getches, Charles B. Roe, Jr., David Kennedy, Roland D. Westergard, Thorpe A. Waddingham, George Proctor

# 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 Council.

## 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 chairperson shall be appointed by the Chairperson of the Council from Committee membership . The Committee chairperson will appoint a vice chairperson, 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 chairperson.

## Reporting

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

## Charter Adoption

This Charter of the Water Resources Committee of the Western States Water Council was adopted by resolution on January 16, 1976, at the meeting of the Council in San Diego, California, and amended on October 16, 1981, in Jackson, Wyoming.

## WATER RESOURCES COMMITTEE MEMBERS

William H. Young - Oregon - Chairperson

Esther C. Wunnicke - Alaska

Ruben Ayala - California

J. William McDonald - Colorado

A. Kenneth Dunn - Idaho

John E. Acord - Montana

Jack L. Stonehocker - Nevada

S. E. Reynolds - New Mexico

Charles E. Nemir - Texas

D. Larry Anderson - Utah

Wilbur G. Hallauer - Washington

Warren White - Wyoming

### Drought Subcommittee

Ruben Ayala - Chairperson

John E. Acord - Montana

Charles E. Nemir - Texas

### Endangered Species Act Subcommittee

D. Larry Anderson - Utah - Chairperson

J. William McDonald - Colorado

Roland D. Westergard - Nevada

### Appropriation Doctrine Subcommittee

Dee C. Hansen - Utah - Chairperson

Robert W. Miller - California

Gene Gray - Idaho

Jack L. Stonehocker - Nevada

Charles DuMars - New Mexico

William H. Young - Oregon

George Christopulos - Wyoming

### FERC Hydro Licensing Subcommittee

John E. Acord - Montana - Chairperson

A. Kenneth Dunn - Idaho

George Proctor - Oregon

Charles B. Roe, Jr. - Washington

Robert W. Miller - California

Charles E. Nemir - Texas



Back Row:  
Front Row:

William H. Young, John E. Acord, D. Larry Anderson

J. William McDonald, Robert W. Miller, A. Kenneth Dunn, Dee C.  
Hansen, Jack L. Stonehocker

# 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 chairperson shall be appointed by the Chairperson of the Council from the Committee membership and serve at his pleasure. The Committee chairperson will appoint a vice chairperson 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 chairperson.

## **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

Fred Pfeiffer - Texas - Chairperson

William A. Ross - Alaska

Sidney Woods - Arizona

David G. Kelley - California

Gary Broetzman - Colorado

Gene Gray - Idaho

Donald G. Willems - Montana

Joseph E. Dini, Jr. - Nevada

Denise Fort - New Mexico

Kip Lombard - Oregon

Calvin Sudweeks - Utah

Glen Fiedler - Washington

George Christopoulos - Wyoming

### EPA/State Relations Subcommittee

Gene Gray - Idaho - Chairperson

Gary Broetzman - Colorado

Fred Pfeiffer - Texas

### Ramifications of the Clean Water Act and Safe Drinking Water Act Reauthorization Subcommittee

Calvin Sudweeks - Utah - Chairperson

Donald G. Willems - Montana

Kip Lombard - Oregon

Joseph E. Dini, Jr. - Nevada



Back Row: Calvin Sudweeks, Joseph E. Dini, Jr., Kip Lombard

Front Row: Gary Broetzman, Glen Fiedler, Gene Gray, David G. Kelley

# 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) Undertake continuing review of all large-scale interstate and inter-basin 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.
- (2) Investigate and review water related matters of interest to the Western States.
- (3) Express policy positions regarding proposed federal laws, rules and regulations and other matters affecting the development and management of water resources in Western States.
- (4) Sponsor and encourage activities to enhance exchange of ideas and information and to promote dialogue regarding optimum management of western water resources.
- (5) Authorize preparation of amicus briefs to assist western states in presenting positions on issues of common interest in cases before federal and state courts.

## Article V - Membership

- (1) The membership of the Council consist of not more than three representatives of each of the states of Alaska, 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 Hawaii,



Hawaii, Nebraska, North Dakota and South Dakota 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.
- (4) The Executive Committee of the Council may, by unanimous vote, confer the status of Associate Member of the Council upon states it deems eligible. Associate Membership will entitle a state to appoint two official observers to participate in council activities and receive all printed material disbursed by the Council. Associate Member states shall have no vote in Council matters. The Executive Committee shall, through regular Council voting procedures, establish the appropriate level of dues for Associate Member states. In addition to determinations concerning Associate Member states, the Executive Committee may, when appropriate, establish fees for participation in Council activities by non-members.

#### **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 Chairperson, Vice Chairperson and Secretary-Treasurer. They shall be selected in the manner provided in Article VIII.

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

The Chairperson, Vice Chairperson 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 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 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 Chairperson, 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 - 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 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 Interbasin or interregional 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 of 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 interbasin 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 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 Guidelines and Procedures for Correlation of Plans and Schedules Among Western States**

### **2.1 Interstate Exchange of Information and Data.**

2.1.1 When a state publishes reports or takes any action which may affect 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.

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

2.1.3 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.

2.1.4 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:

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

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

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

2.1.4.4 Major legal and administrative decisions pertaining to water resources.

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

### **2.2 Correlation of Plans and Schedules.**

2.2.1 A master list shall be prepared and maintained at the headquarters of the Western States Water Council of items furnished pursuant to Section 2.1 with copies to be furnished to member States at appropriate intervals.

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## NOTES

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