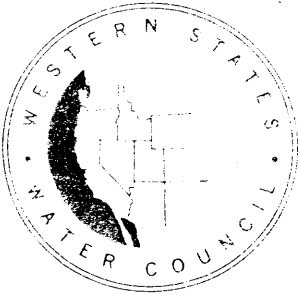


**WESTERN**

**STATES**



**WATER**

**COUNCIL**

**1975**

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# WESTERN STATES WATER COUNCIL

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1975

## ANNUAL REPORT

### ORGANIZATION AND ACTIVITIES OF THE COUNCIL IN 1975

#### Summary of Activities

The Western States Water Council is made up of the eleven Western Governors and thirty-three additional Council members appointed by the Governors. The states that are members of the Council are: ARIZONA, CALIFORNIA, COLORADO, IDAHO, MONTANA, NEVADA, NEW MEXICO, OREGON, UTAH, WASHINGTON, and WYOMING. The Council was created in June 1965 at the Western Governors' Conference. (Resolution B, page 27)

Mr. William A. Groff, Montana, finished his second year as Chairman of the Council in July of 1975. Mr. Wesley E. Steiner, Arizona, was elected Chairman on July 25, 1975 at Denver, Colorado after serving two years as Vice-Chairman. Also in July, Mr. Chris L. Wheeler, Oregon, was elected to serve as Vice-Chairman and Daniel F. Lawrence, Utah was appointed by Chairman Steiner to continue to serve as Secretary-Treasurer. At Chairman Steiner's request, Donald L. Paff, Nevada, and Eugene E. Marsh, Oregon, continued on as chairmen of the Water Resources Committee and Water Policy and Legislative Committee respectively.

The Council office was moved during the year to 220 South 2nd East, Salt Lake City, Utah from the University Club Building in the same city. The office staff consisted for the entire year of two professionals and three clerical positions. A sixth employee was on assignment during the year to the National Commission on Water Quality pursuant to the provisions of the Intergovernmental Personnel Act. There were no personnel changes during the year.

The Western States are able to bring together western water officials in the forum of the Council to discuss and act upon water issues of mutual concern and interest. The Council takes external positions

only to act as a body if there is a consensus of opinion among the member states. On matters concerning out-of-basin transfers of water, a unanimous vote of all member states is required. The Chairman rules as to whether the matter under consideration concerns an out-of-basin transfer. On other external matters, a two-thirds majority vote is needed for the Council to take a position. Frequently, the Council serves as a catalyst and an information gathering aid so that member states are better able to respond and represent their position on water matters many times when the Council takes no action.

During 1975, concurrence on several issues was formally obtained and the position of the eleven Western States through the Western States Water Council was expressed by resolution and/or position. None of the issues concerned out-of-basin transfers.

Members states opposed federal water rights legislation proposed by the Justice Department and a resolution expressing opposition was passed. Council members felt it was not feasible or desirable to attempt to amend the proposed legislation. (Resolution 43. (1-75), page 27.)

The Council, by resolution, urged the Congress to appropriate the full \$5 million authorized under Title III of P.L. 89-80 to help state water resource planning. Realizing that there would be a short three month fiscal period starting July 1, 1976, prior to commencing of the newly adopted budget year, Council members also urged Congress to take appropriate steps to insure that Title III monies would be appropriated and available for that three month transitional period. Copies of the resolution were transmitted to the Governors of the eleven Western States, Congressional delegates and other interested parties as deemed appropriate. (Resolution 44. (5-75), page 28.)

Council members noted that the Water Resources Planning Act (P.L. 89-80) will expire at the end of FY 1976. They concluded that there is a need to continue the Act in principle, but that modification to the law as it presently exists needed to be considered. The Council took particular note of proposed legislation which would modify P.L. 89-80 and felt it extremely timely and important that the Congress holds oversight hearings. The Council made suggestions to the Congress of items that should be fully discussed in the hearing process. (Resolution 45 (5-75), page 29.)

The Council opposed S. 1002 which would create an Indian Trust Counsel Authority completely free from controls of the executive branch and which would supplant the Departments of Justice and Interior as legal representatives of Indians in any matter concerning their rights or claims to natural resources in which the Authority chose to intervene. The Council felt the legislation was merely shifting legal representation and would not resolve the existing complex inter-tribal conflicts relating

to natural resources. It could also open the door to countless lawsuits. A more straightforward and practical solution to the problem was offered by a Council resolution which suggested that, when conflicts of interest arise, the Interior and Justice Department should retain separate private counsel to represent the interests involved. (Resolution 46. (5-75), page 30.)

S. 282, known as the "Hardrock Mineral Development Act of 1975," was considered for enactment in 1975 by the Senate Interior and Insular Affairs Committee. The Western States Water Council took exception to Section 19 of the bill which provides that, "Upon application of a lessee, the Secretary shall grant the lessee a right to drill for, produce and use so much water subject to Federal ownership, appropriation or utilization on lands subject to his lease as may be needed in connection with activities under his lease, . . ." The Council felt this language contemplated granting of a federal water right to use water not yet appropriated and put to beneficial use. The Council also felt the section could lead to recognition of a water right inconsistent with the water laws of most Western States, and that it implied the existence of federally reserved rights for use by federal mineral interest lessees. Therefore, the Western States Water Council opposed the adoption of S. 282 so long as Section 19 was retained in the bill. (Resolution 47. (5-75), page 31.) For the same reasons, the Council opposed passage of H.R. 8435 known as the "Mineral Leasing Act of 1975," so long as Section 113 was retained in that bill. (Resolution 48. (10-75), page 32.)

The Federal District Court for the District of Columbia in March of 1975 declared invalid, regulations of the United States Army Corps of Engineers as they pertained to the Corps' responsibilities under Section 404 of the Federal Water Pollution Control Act. The Corps responded to the Court decision by publishing proposed regulations to implement Section 404 of the Act which would greatly expand the Corps' traditional regulatory responsibilities in the waters and along the shoreline areas of the nation. The majority of Council members felt that most of the states had established and implemented comprehensive planning and regulatory programs pertaining to land use, flood control, and water pollution control for these water and shoreline areas. The Corps of Engineers' proposal would therefore establish duplicative, costly, and wasteful federal efforts that would place undue burdens on the populace generally and create unnecessary confusion and delay in the area of land and water use control, while providing little, if any, environmental protection benefits. The Western States Water Council urged Congress to (1) amend the definition of "navigable waters" so that the Corps of Engineers is jurisdictionally limited to the traditional definition of navigable waters under the commerce clause of the

U.S. Constitution, and (2) amend Section 404 to insure that no federal program administered under it will duplicate state programs designed to control waters of the states, their beds, and adjacent shoreline areas. The Council also urged the Corps of Engineers to administer its regulations to provide methods for maximum delegation to the states where state jurisdiction is exercised in a manner which achieves the environmental protection intended by Section 404 of the Act. The Council further committed its full cooperation to the Congress and the Corps of Engineers in any effort to bring about a joint state-federal program to control dredge and fill activities which utilizes the best talents and abilities of both the states and the federal government. (Resolution 49. (10-75), page 33.)

To better utilize the talents of all Council members, a resolution was adopted to bring about the internal reorganization of the Council by creating a Management Subcommittee of the Executive Committee and a new subject area working committee with areas of work to be subsequently determined. The new Management Subcommittee would handle the ordinary matters of Council business and would consist of the present Chairman, Vice-Chairman and Secretary-Treasurer, the immediate past Chairman, and the Executive Director. Three members would constitute a quorum and a simple majority of those voting would prevail. The new subject area committee would consist of one member from each state as do the original two working committees. Each state would be responsible for appointments to the three committees for best possible coverage. A quorum would consist of six members. (Resolution 50. (10-75), page 34.)

At a hearing of the Energy Research and Water Resources Subcommittee of the Interior and Insular Affairs Committee of the U.S. Senate held in Las Vegas, Nevada, Executive Director, Jack A. Barnett, presented a position adopted by the Western States Water Council regarding the Water Resources Planning Act. (Position 51. (10-75), page 35.)

Resolutions expressing appreciation to retiring Council members were adopted by the Council and special plaques were presented. These resolutions are printed on pages 41-42 of this report.

#### 37th Quarterly Meeting held January 17, 1975, at Scottsdale, Arizona

The host state, Arizona, reported on the current status of the Central Arizona Project. The report was given by Wesley E. Steiner, Executive Director of the Arizona Water Commission and Arizona State Water Engineer.

A compilation of all positions and resolutions taken by the Council since its creation was prepared and given to all Council members. It will be updated as new resolutions and positions are adopted.

A water for energy report entitled, "Western States Water Requirements for Energy Development to 1990," was completed under the leadership of the Water Resources Committee. It was announced that copies were mailed to all eleven Governors and the report was distributed to Council members upon request.

A joint meeting of the Water Policy and Legislative Committee and the Water Resources Committee was held to hear Mr. Warren Fairchild report on the Water Resources Council's activities relating to allocations under Title III of P.L. 89-80, Section 80 study efforts, the National Assessment and the Water for Energy report which was distributed the following week.

A subcommittee was formed to study the legal implications of P.L. 92-500. Chairman of the subcommittee was Tom Choules with Raphael Moses, Ray Rigby, and Eugene Marsh as committee members.

The U.S. Department of Justice proposed legislation to quantify alleged federal reserved water rights. With the help of the Interstate Conference on Water Problems (ICWP), questionnaires were sent to all states and their responses received concerning the so-called "Kiechel Bill." It was reported at the Council meeting that the proposed bill constituted a threat to state water resource administration. The Council's position was reaffirmed with a resolution regarding the proposed legislation. (See page 27.)

Assistant Director and Council Attorney, D. Craig Bell, had been actively engaged in a task force with ICWP concerning the Kiechel Bill and state-federal water rights. Considerable time was spent assembling and digesting the state responses and writing the report of the ICWP Task Force which was headed by R. Keith Higginson of Idaho. Mr. Bell was primarily responsible for organizing and editing the ICWP report which reflected the views of water resource administrators not only in the Western States, but across the nation.

#### 38th Quarterly Meeting held May 9, 1975, at Las Vegas, Nevada

Executive Director, Jack A. Barnett, and Council Chairman, William A. Groff, reported on their participation at the Governors' Conference on Agriculture. Executive Director Barnett and Assistant Director D. Craig Bell also reported on their attendance at the National Conference on Water held in Washington, D.C. in mid-April, which involved keynote addresses and panel discussions.

Mr. Vern Butler, Chairman of the North American Interstate Weather Modification Council, South Dakota, and Dr. Ray J. Davis, Professor of Law, University of Arizona, were in attendance and addressed the Council members on weather modification. Mr. John T.

Carr, Jr., Director of Weather Modification and Technology Division, Texas Water Development Board of Austin, gave a summary observation on the subject of weather modification.

The Water Policy and Legislative Committee stressed their opposition to the proposed Kiechel legislation and felt the Council should be prepared to make some alternative proposals in the event it was introduced. The staff was instructed to employ Mr. Frank J. Trelease of the Law School of Wyoming to prepare possible alternate proposals for the Council to consider.

The State-Federal Water Rights Subcommittee objected to Section 19 of the Hard Rock Mineral Development Act of 1975 and opposed the bill as long as that section remained in the Act. Section 19 implies that the federal government has reserved rights to waters for the purpose of developing mineral interests. A resolution concerning this matter was adopted. (See page 31.)

A resolution opposing the creation of an Indian Trust Counsel Authority was adopted by the Council. (See page 30.)

The Water Resources Committee recommended a resolution for adoption by the Council regarding the Water Resources Planning Act, P.L. 89-80 (see page 29). The resolution passed by unanimous vote. A position paper regarding revisions to the Act was discussed and the Water Resources Committee recommended that the position paper be transmitted to Senator Church, appropriate Congressional committee staff members, and other appropriate Senators and Congressmen involved in oversight hearings on the Act. (See page 35.)

#### 39th Quarterly Meeting held July 25, 1975 in Denver, Colorado

Mr. Warren Fairchild, Director of the Water Resources Council, was in attendance and discussed actions in Washington with regard to Public Law 89-80. Mr. Fairchild announced that Wayne Haas, an employee of the State of Idaho who has been active in the Western States Water Council, will accept an assignment to the Water Resources Council for one year through the Intergovernmental Personnel Act.

The July meeting of the Western States Water Council is, by adopted rules, the yearly business meeting of the Council. Chairman Groff stepped down from the chairmanship and turned the gavel over to the newly elected Chairman, Wesley E. Steiner of Arizona, and the newly elected Vice-Chairman, Chris L. Wheeler of Oregon. Chairman Steiner requested Mr. Daniel F. Lawrence of Utah to serve another term as Secretary-Treasurer. Chairman Steiner introduced a proposed change in organization of working committees within the Council. A third working committee was proposed and a reshuffle of committee

memberships to utilize talents of Council members to their fullest. The proposal involved the creation of three working committees to replace the two now organized. This matter was to be explored for the next three months and Council members were requested to be prepared to discuss it further at the October meeting in Austin, Texas.

A water education proposal was introduced and tabled for further action in October. A revision to the Council's Principles - Standards - Guidelines was prepared and distributed in draft form to all Council members for further consideration at the October meeting with possible Council action at that time.

The Water Quality Subcommittee reported on its progress with the issues of Section 404 of P.L. 92-500. The primary question related to the Corps of Engineers' jurisdiction to require permits for dredge and fill activities in "navigable waters." The Subcommittee had been very active and planned to meet again before the next meeting to review the regulations expected to be published in the interim.

George Hannett, New Mexico, was delegated to monitor S.1328 which provides for the reacquisition of jurisdiction by Indian tribes and the United States over criminal and civil matters on Indian reservations and for other purposes. In this bill, the Indians would potentially be allowed to adjudicate claims to natural resources on Indian reservations in Indian courts.

Mr. Austin Nelson, Staff Assistant for the National Commission on Water Quality, addressed the Council regarding irrigation agriculture. He reported on the progress being made toward the draft report of the Commission and the possible printing date of February 1.

#### 40th Quarterly Meeting held October 10, 1975 at Austin, Texas

At the invitation of the Texas Water Development Board, extended by the Texas Observer, Charles Nemir, the 40th quarterly meeting was held in Austin, Texas on October 10, 1975. Governor Dolph Briscoe, Governor of Texas, welcomed Council members and gave a brief address. Chairman Steiner reported on the Western Governors' Conference at Sun Valley, Idaho, on September 21 to 24. The Conference was attended by all Western Governors with the exception of Governor Brown of California and Governor Judge of Montana, who was hospitalized. Chairman Steiner gave a presentation to the Governors that was highlighted with slides. Several questions were asked by the Governors. Mr. Steiner was asked how policy positions were adopted by the Western States Water Council. He advised the Governor that positions are only taken on external matters that do not involve out-of-basin transfers of water after a 30-day notice is given and a 2/3 favorable

vote is cast. It was explained that the 30-day notice period is, in part, to allow Council members time to communicate with their Governors. Mr. Steiner further explained that a unanimous vote is needed for issues relating to out-of-basin transfers. Council members were admonished by Chairman Steiner to take additional steps to make sure their Governors are aware of Council activities. With six of the eleven Western Governors taking office this year with new staffs, it was felt some may not have had sufficient time to become acquainted with what the Council is doing.

Chairman Steiner read a telegram from Vice-President Nelson Rockefeller inviting him to participate in the Presidential Public Forum on Natural Resources and Environment held by the Domestic Council in Denver, Colorado on October 21. Due to a busy schedule, Mr. Steiner was unable to attend and the Executive Director was asked to take a formal statement along with previously adopted statements that would be apropos to the forum, and give a five minute presentation.

Appropriate resolutions were adopted and plaques were prepared for retiring Council members Tucson Myers, Oregon; Floyd Bishop, Wyoming; T. W. Ten Eyck, Colorado and John Teerink, California.

A proposed resolution regarding the internal reorganization of the Council and the creation of a Management Subcommittee and a third working committee was adopted with an ad hoc subcommittee named to study and submit recommendations concerning the details of the reorganization and the subject areas to be addressed by each of the working committees.

Mr. Harry Burleigh, Director of the Texas Water Development Board, reported on Texas water activities and Danny Burger, Development Fund Manager for the Texas Water Development Board, gave a report on the Texas water loan program.

Section 404 of P.L. 92-500 regarding the responsibilities of the Corps of Engineers was discussed and a resolution that conformed with the resolution passed by the Western Governors' Conference was passed with California casting a dissenting vote. (See page 33.)

Section 113 of the Mineral Leasing Act of 1975 (H.R. 8435) was opposed by resolution. The language of the bill contemplates granting of a federal water right to use water not yet appropriated and put to beneficial use. The Council felt that Section 113 of H.R. 8435 is inconsistent with the water laws of most Western States and implies the existence of federally reserved rights for use by federal mineral interest lessees.

The Water Policy and Legislative Committee authorized staff to undertake a study of the effects on the use of non-Federal lands of

major Federal water-related programs. The Land Use Subcommittee felt that in order to comment intelligently on federal land use bills which may be proposed, they must know what programs are currently in effect by the federal government and how they affect land use and water. Craig Bell, Assistant Director, was instructed to supervise the study. The staff was also authorized by the Committee to compile a report requested by the Federation of Rocky Mountain States on Indian water rights cases in the Western States.

A position statement regarding the Water Resources Planning Act—P.L. 89-80 was considered and after modification was recommended and adopted. (See page 35.)

Staff was instructed to inform Council members 30 days prior to the January meeting of potential changes in the Council's Principles.

### Appearances

Chairman Groff and Executive Director Barnett participated in a panel discussion at the Governors' Conference on Agriculture held in Billings, Montana, on April 1-3. Chairman Steiner and Executive Director Barnett participated in and made a presentation at the Western Governors' Conference at Sun Valley, Idaho on September 23-24. During the year, the staff of the Western States Water Council attended and/or participated in many meetings and conferences held by a large number of water oriented organizations or multi-state organizations. They included the Federation of Rocky Mountain States, the Interstate Conference on Water Problems, the Pacific Northwest River Basins Commission, the Pacific Southwest Inter-Agency Committee, the Southern Environmental Conference, the National Conference of State Legislatures, the National Governors' Conference, the Western Conference of State Legislatures, Council of State Governments, Western Interstate Nuclear Board, National Farm Bureau, National Water Resources Association, Colorado River Water Users Association, Western Regional Environmental Education Council, Energy and Man's Environment education program, National Conference on Water, U.S. Nuclear Regulatory Commission, North American Interstate Weather Modification Council, and a Presidential Public Forum conducted by the Domestic Council on Natural Resources and Environment. Council staff also made presentations before committees of Congress and the U.S. Water Resources Council.

### Special Assignments

The staff of the Western States Water Council with the assistance of consultants was involved throughout the year in several special assignments. A considerable amount of time was spent in organizing

and editing a report initiated by a special task force of the Interstate Conference on Water Problems as a state response to proposed legislation drafted by the Justice Department. This proposed legislation prescribed a way whereby the federal government could claim and eventually adjudicate in Federal courts alleged federal reserved water rights. Responses were received by the task force of ICWP from most of the fifty states. The final report containing this information was compiled, typed, reproduced and distributed by the Council staff.

During the year, research was accomplished by the staff to determine all previous positions adopted by the Western States Water Council and a synopsis is now available for all Council members.

A major effort of the staff during 1975 was the preparation of a publication entitled, "Western States Water Requirements for Energy Development to 1990." This timely publication has received wide distribution and most of the 2,500 copies that were printed have been distributed.

Studies were undertaken by the Council staff dealing with the Indian water rights cases pending in the eleven Western States and also on the role of Federal water resources programs as a tool to implement federal land use plans and policies.

The staff was also involved during the year in working with a task force organized by the National Governors' Conference to determine how the Corps of Engineers should regulate dredge and fill activities in the waters of the nation under Section 404 of P.L. 92-500.

Staff was also involved with the Interstate Conference on Water Problems in a review of the need for changes in P.L. 89-80 (The Water Resources Planning Act) and helped prepare a special presentation to Congress and members of Congressional staffs. Also in connection with the efforts of ICWP, the staff of the Western States Water Council participated in discussions associated with the U.S. Water Resources Council study efforts to determine the opportunities for a change in federal policies with respect to water resource development. This effort has commonly been referred to as the Section 80 Study effort.

## COUNCIL AND STAFF MEMBERSHIP

### List of Membership

#### for 1975

##### Chairman

Mr. Wesley E. Steiner—Arizona  
(7-75 to ...)

Mr. William A. Groff—Montana  
(7-73 to 7-75)

##### Vice-Chairman

Mr. Chris L. Wheeler—Oregon  
(7-75 to ...)

Mr. Wesley E. Steiner—Arizona  
(7-73 to 7-75)

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Pearl O. Pollick ..... Office Manager  
Fae O. Drake ..... Report Specialist  
Virginia W. Jensen ..... Secretary

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Office (512) 475-3571

\*Ex-Officio Members

\*\*Member of Executive Committee

## BUDGET AND FINANCE

The Budget Subcommittee chaired by Daniel F. Lawrence reported to the Council at the May 9 meeting in Las Vegas, Nevada. The Council began FY '75 with \$150,000 in reserve from previous assessments and interest earnings. A FY '76 budget was recommended by the Subcommittee of \$144,000 with state assessments at \$13,000 each. The budget and the associated assessments were unanimously approved by the Council.

The firm of Hansen, Barnett and Maxwell, Certified Public Accountants, 345 East Broadway, Salt Lake City, Utah 84111, served as auditors of the Council finances and accounting. The audit performed showed the Council accounts, records and expenditures to be correct and proper. Council funds are invested through the Treasurer of the State of Utah. These funds are in a position where they can be audited and accounted for at any point. The collection of revenues and the disbursement of funds through the first six months of the 1975 calendar year are identified by a page of the auditor's report that has been reproduced and made a part of this annual report.

**WESTERN STATES WATER COUNCIL  
GENERAL FUND**

**Statement of Revenue and Expenditures and Fund Balance  
For the Year Ended June 30, 1975**

|  | <u>Actual</u>    | <u>Budget<br/>Note D</u> | <u>Actual<br/>Over-<br/>(Under)<br/>Budget</u> | <u>Actual<br/>Prior<br/>Year</u> |
|--|------------------|--------------------------|--|----------------------------------|
| <b>Revenues</b>  |                  |                          |  |                                  |
| Member States' Assessments.....                                    | \$ 55,000        | \$ 55,000                | \$ .....                                       | \$ 55,000                        |
| Interest income .....  | 12,207           | .....                    | 12,207   | 11,708                           |
| Other .....  | 11,631           | .....                    | 11,631   | 1,217                            |
| <b>Total Revenues</b> .....  | <b>\$ 78,838</b> | <b>\$ 55,000</b>         | <b>\$ 23,838</b>                               | <b>\$ 67,925</b>                 |
| <b>Expenses</b>  |                  |                          |  |                                  |
| Salaries .....   | \$ 68,032        | \$ 70,000                | \$ (1,968)                                     | \$ 35,799                        |
| Printing and reproduction .....                                    | 13,209           | 14,400                   | (1,191)  | 9,340                            |
| Travel .....   | 12,242           | 16,200                   | (3,958)  | 7,564                            |
| Rent .....   | 9,019            | 9,300                    | (281)  | 7,044                            |
| Payroll taxes and employee<br>benefits .....                       | 7,359            | 9,200                    | (1,841)  | 3,186                            |
| Telephone .....  | 4,757            | 6,200                    | (1,443)  | 4,482                            |
| Contract services .....  | 3,124            | 9,000                    | (5,876)  | 1,624                            |
| Furniture and equipment.....                                       | 2,546            | 1,500                    | 1,046  | 565                              |
| Postage .....  | 2,400            | 3,000                    | (600)  | 2,225                            |
| Office supplies .....  | 1,795            | 2,200                    | (405)  | 1,497                            |
| Unforeseen contingencies .....                                     | 1,323            | 1,400                    | (77)   | 3,116                            |
| Reports and publications .....                                     | 1,031            | 1,500                    | (469)  | 1,037                            |
| Meetings and arrangements .....                                    | 445              | 1,000                    | (555)  | 501                              |
| Auditing .....   | 400              | 700                      | (300)  | 600                              |
| Insurance .....  | 319              | 600                      | (281)  | 281                              |
| Bank Charges .....   | 8                | .....                    | 8  | 6                                |
| <b>Total Expenditures</b> .....                                    | <b>\$128,009</b> | <b>\$146,200</b>         | <b>\$(18,191)</b>                              | <b>\$ 78,867</b>                 |
| <b>Excess (Deficiency) of Revenues<br/>Over Expenditures</b> ..... | <b>(49,171)</b>  | <b>(91,200)</b>          | <b>42,029</b>                                  | <b>(10,942)</b>                  |
| <b>Fund Balances—Beginning of<br/>Year</b> .....                   | <b>149,645</b>   | <b>149,645</b>           | <b>.....</b>                                   | <b>160,587</b>                   |
| <b>Fund Balance—End of Year</b>                                    | <b>\$100,474</b> | <b>\$ 58,445</b>         | <b>\$ 42,029</b>                               | <b>\$149,645</b>                 |

**COMMITTEES**

General

The Western States Water Council has been organized for many years into three separate committees. Each of the three committees has an officially designated representative from each of the eleven Western States serving as a committee member. The Executive Committee is composed of designees of the eleven Western Governors that are concerned with the general policy and business matters of the Council. The chairman of the Executive Committee is also the chairman of the Council. In addition to the Executive Committee, each state has a representative on the Water Resources Committee and on the Water Policy and Legislative Committee. The two latter committees frequently hold meetings as issues arise in areas of their particular responsibility. It has been through these two committees, often referred to as working committees, that many of the issues are fully discussed and tentative resolutions are drafted for consideration by the Executive Committee and the full Council for formal adoption or action by the Council.

Through action taken at the October meeting, the structure of the committees was changed and in 1976 there will be changes in the operation of all the committees of the Council. A new Management Subcommittee of the Executive Committee was created, composed of the Council Chairman, the immediate past Chairman, Vice-Chairman, Secretary-Treasurer and the Executive Director. The Management Subcommittee will assume the management and housekeeping duties of the Executive Committee with the Chairman presiding. A third working committee was also created in October with the subject area of the committee to be determined at the January 1976 Council meeting. It was anticipated that the subject area for the two existing committees would also be redefined. Each of the states' was to have the prerogative to shuffle present committee members to serve in new committee assignments where they were best qualified.

## Executive Committee

### Executive Committee Members As of December 31, 1975

#### Arizona

Wesley E. Steiner, Chairman  
Wayne M. Akin

#### California

Ronald B. Robie  
(7-75 to ....)  
John R. Teerink  
(9-73 to 3-75)

#### Colorado

Harris D. Sherman  
6-75 to ....)  
T. W. Ten Eyck  
(1-69 to 6-75)

#### Idaho

Herman J. McDevitt

#### Montana

William A. Groff  
Orrin Ferris (Alt.)

#### Nevada

Roland D. Westergard

#### New Mexico

Steve E. Reynolds

#### Oregon

Chris L. Wheeler

#### Utah

Thorpe A. Waddingham

#### Washington

John A. Biggs

#### Wyoming

George Christopulos  
(4-75 to ....)  
Floyd A. Bishop  
(8-65 to 4-75)

### 1975 Meetings

January 16 .....Scottsdale, Arizona  
May 8 .....Las Vegas, Nevada  
July 24 .....Denver, Colorado  
October 9 .....Austin, Texas

The Executive Committee is the administrative and steering committee of the Council on matters outlined in its Charter and such other matters as may be related thereto. The Executive Committee has the authority to act upon internal and administrative matters between meetings of the Council, to create working groups and ad hoc groups, to make assignments to committees, to receive committee reports and implement actions and programs approved by the Council.

The Executive Committee consists of one representative from each member state and each member has one vote in conducting business. A quorum consists of six (6) members, and a simple majority of those voting prevails. If an external matter comes before the Executive Committee between the regular quarterly meetings of the Council, and the Executive Committee finds an emergency exists, it may take final

action by unanimous vote of all members. The Chairman of the Council presides as Chairman of the Executive Committee and it is his responsibility to report to the full Council at each Council meeting as to any actions taken by the Executive Committee between regular meetings. The committee has the obligation to give suggestions concerning the Council meeting agenda and correlate the Council's efforts to keep abreast of broad-scale developments as they relate to Council programs.

A resolution was passed at the October 9, 1975 Austin, Texas meeting to create a third working committee and a Management Subcommittee to handle business matters presently handled by the Executive Committee. This would enable members of the Executive Committee to use their broad knowledge to greater advantage as members of a regular working committee. The number of working committees was changed from two to three and the exact subject area of each working committee was to be defined subsequently.

The organization and activities of the Executive Committee as constituted in 1975 was governed by a Charter that was adopted on January 29, 1970. (For a copy of the Executive Committee Charter, refer to the 1973 Annual Report of the Western States Water Council.) Subcommittees working under the Executive Committee during 1975:

#### Subcommittees to Study the Frequency of Meetings

Roland Westergard, Nevada—Chairman; Wayne Haas, Idaho; and Daniel Lawrence, Utah.

#### Nominating Subcommittee

Roland Westergard, Nevada—Chairman; Herman McDevitt, Idaho; George Christopulos, Wyoming.

#### Subcommittee for Mementos for Retiring Council Members

Herman McDevitt, Idaho—Chairman; Ted George, California; and George Hannett, New Mexico

#### Reorganization Subcommittee

Ronald Robie, California; Don Maughan (Alt.), California; Myron Goodson, Wyoming; Harry Pugsley, Utah; Wesley Steiner, Arizona; Chris Wheeler, Oregon and Jack Barnett, Executive Director

#### Management Subcommittee

Council Chairman, Wesley Steiner; Immediate Past Chairman, William Groff; Vice-Chairman, Chris Wheeler; Secretary-Treasurer, Daniel Lawrence and Executive Director, Jack Barnett.

## Water Resources Committee

### Water Resources Committee Members — 1975

|                         |   |
|-------------------------|---|
| Arizona                 | New Mexico                                |
| Wesley E. Steiner       | Senator Odus L. Echols<br>(11-75 to ....) |
| California              | Homer C. Berry<br>(8-67 - 11-75)          |
| Theodore J. George      |   |
| Colorado                | Oregon                                    |
| C. J. Kuiper            | Chris L. Wheeler                          |
| Idaho                   | Utah                                      |
| Ray Rigby               | Daniel F. Lawrence                        |
| Montana                 | Washington                                |
| John E. Acord           | Norman L. Krey                            |
| Orrin Ferris (Alt.)     |   |
| Nevada                  | Wyoming                                   |
| Donald L. Paff—Chairman | Myron Goodson                             |

### 1975 Meetings

|                   |                      |
|-------------------|----------------------|
| January 16 .....  | Scottsdale, Arizona  |
| February 21 ..... | Salt Lake City, Utah |
| May 8 .....       | Las Vegas, Nevada    |
| June 6 .....      | Salt Lake City, Utah |
| July 24 .....     | Denver, Colorado     |
| October 9 .....   | Austin, Texas        |
| December 18 ..... | Denver, Colorado     |

Water Resources Committee membership is by appointment by the member states of the Council, one member from each state, but not necessarily one of the State's delegates to the Council. A quorum consists of six (6) members. A majority of those members present and voting is required for committee action. Each state has one vote. The committee chairman is appointed by the Chairman of the Council from the committee membership. The committee chairman can appoint task groups as needed. The Council staff furnishes necessary assistance as desired and requested by the committee. The Water Resources Committee meets at the pleasure of the committee chairman. The committee chairman submits reports and/or recommendations to the Council at each meeting of the Council and interim reports as directed by the Council. The Water Resources Committee is to issue no public statement or report except as directed by the Council.

The Water Resources Committee was concerned about many issues during 1975 that ultimately resulted in Council action. Title III

of the Water Resources Planning Act of 1965 (P.L. 89-80) allows for the appropriation by Congress of monies to assist the states in water resource planning and to encourage coordination of water resource planning matters among state, regional and federal entities. The Act allows for as much as \$5 million to be appropriated to the states and the authorization for this appropriation was to terminate ten years from the date of the enactment of the Act. The Water Resources Committee was concerned that Title III was frequently not funded or recommended to be funded by the federal administration at the fully authorized level and that Title III of the Act was to expire. Further concern by members of the Western States Water Council centered around the fact that, in the past, not all of the funds appropriated for Title III by the Congress had been released by the administration. Therefore, the Water Resources Committee, after study and deliberation, recommended to the Council that the Council urge the Congress to appropriate the full \$5 million and that Title III of the Act be extended. These efforts in concert with other water resource organizations resulted in an accomplishment of these goals. In 1975 Congress appropriated the full \$5 million and the Act was extended.

The states of the Western States Water Council were also concerned about the Section 80c Study effort that was authorized under P.L. 93-251. This Act instructed the administration to examine, in detail, the federal policies with respect to the authorization of water projects and the expenditure of funds in the water resource area. Of particular interest was the determination of the discount rate and the current Principles and Standards for water resource planning. The Water Resources Committee learned that the administration was engaged in these described study efforts with little input from the states. The Water Resources Committee was able to bring this matter to the attention of the full Council and the Council urged that the states be allowed to participate in the study effort. The Council's goals in this regard, however, were not realized.

Members of the Water Resources Committee felt that it would be appropriate to amend the Rules of Organization of the Western States Water Council to more clearly express the concern of the eleven Western States for the conservation of the valuable water resources found within the region. The Water Resources Committee formulated appropriate recommendations to be considered by the Council to accomplish this end.

The Water Resources Committee was also concerned about a policy statement prepared by the Department of Interior that would describe policies that the Interior Department and its agencies would follow with respect to the use and allocation of federal water resources. Although the Committee favored the conservation and wise use of water

resources that are under the control of the federal government, the Committee felt a keen concern that the federal government might be asserting jurisdiction to establish policy over water resources that have traditionally been administered by the states. The Water Resources Committee communicated these concerns to the entire Council.

During 1975, the Water Resources Committee spent a considerable amount of time considering the possibility of the Council becoming a catalyst in the area of public education with respect to western water resources. This is an area in which the Council had not previously been involved. However, after much deliberation, the Water Resources Committee recommended a course of positive action for the Council to proceed.

Weather modification was discussed by the Water Resources Committee and communications were accomplished with the newly created North American Interstate Council on Weather Modification. At the invitation of the Water Resources Committee, a presentation on the current status of weather modification in the West was made to the entire Council. The Water Resources Committee observed the plans of the federal government to sponsor a National Conference on Water. The committee alerted Council members of the issues that were to be discussed and the Water Resources Committee analyzed the results and impacts from the conference that was held in Washington, D.C. on April 22-24. Many members of the Water Resources Committee were participants in that conference.

The Committee spent a significant amount of time over the last eighteen months on the subject of water for energy in the Western United States. As a result of the efforts in the previous calendar year, a report was completed and released in January 1975 entitled, "Western States Water Requirements for Energy Development to 1990." This report provided each of the states with valuable information as to the potential demands by the energy industry on the water resources of West.

The study was initiated, in part, as a result of the apparent lack of coordination among the many federal water and energy studies. This led the Water Resources Committee to recommend to the Council that a representative from the federal government be appointed as a focal point for coordination in all of the federal water for energy study efforts. The request was made by the Council to the President and many other federal officials. Eventually, the President designated Jack O. Horton, Assistant Secretary of Interior for Water and Lands, as the coordinator of these efforts. The Water Resources Committee found, however, that additional efforts are needed to determine the extent of water for energy studies in progress. Therefore, a study was

authorized near the close of the 1975 calendar year to report and advise the states on the many ongoing study efforts.

The authority and procedures under which the Water Resources Committee operate were established by the adoption of a Charter by resolution on April 23, 1970 at the meeting of the Council in Albuquerque, New Mexico. (For a copy of the Water Resources Committee Charter refer to the 1973 Annual Report of the Western States Water Council.)

Appointments to subcommittees under the Water Resources Committee:

Education Subcommittee

Ray Rigby, Idaho—Chairman; Myron Goodson, Wyoming; Wayne T. Haas, Idaho and Ted J. George, California.

National Conference on Water Subcommittees

Wesley Steiner, Arizona; Wayne Haas, Idaho; Fred Hahn, Washington and Ted George, California.

Section 80 Study Subcommittee

Wayne Haas, Idaho

Title III Subcommittee

Daniel Lawrence, Utah—Chairman; Jack Acord, Montana; Wayne Haas, Idaho; Wesley Steiner, Arizona; and Myron Goodson, Wyoming.

Subcommittee on Policy Statement of Federal Water Resources

Wesley Steiner, Arizona and Myron Holburt, California.

Subcommittee on Water for Energy

Wayne MacRostie, California and Ted George, California

## Water Policy and Legislative Committee

### Water Policy and Legislative Committee Members—1975

|                     |                           |
|---------------------|---------------------------|
| Arizona             | Nevada                    |
| Tom Choules         | Hal Smith                 |
| California          | New Mexico                |
| Senator Howard Way  | George Hannett            |
| Colorado            | Oregon                    |
| Raphael J. Moses    | Eugene E. Marsh, Chairman |
| Idaho               | Utah                      |
| George L. Yost      | Harry D. Pugsley          |
| Montana             | Washington                |
| Ted J. Doney        | Charles B. Roe, Jr.       |
| Orrin Ferris (Alt.) | Wyoming                   |
|                     | Willard C. Rhoads         |

### 1975 Meetings

|                  |                     |
|------------------|---------------------|
| January 16 ..... | Scottsdale, Arizona |
| May 8 .....      | Las Vegas, Nevada   |
| July 24 .....    | Denver, Colorado    |
| October 9 .....  | Austin, Texas       |

Membership on the Water Policy and Legislative Committee is by appointment by the member states of the Council. Each state designates one member, who need not be one of the state's delegates to the Council. Any committee member may designate an alternate to serve in his absence. A quorum necessary for committee action consists of six (6) members. A majority of those members present and voting is required for committee action. Each state has one vote.

A committee chairman is selected from the committee membership by the Council Chairman and serves at his pleasure. The committee chairman may appoint task groups or subcommittees as he deems necessary. The Council staff furnishes assistance as requested. The committee meets at the pleasure of the committee chairman and submits reports and recommendations to the Council. The Water Policy and Legislative Committee is not authorized to issue any public statements or reports. The committee deals with the legal issues confronting the Council and assists in developing and recommending basic assumptions, objectives, principles, and criteria for guidance to the Council in the policy and legislative field.

Water quality issues were prominent in the committee's agenda during the year. The Water Quality Subcommittee, which was created

in 1974, followed closely the work of the National Commission on Water Quality. The Commission was charged with assessing the effects of implementation of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500). The Subcommittee also studied the new regulations issued by the Corps of Engineers concerning the Corps' permit responsibilities under Section 404 of P.L. 92-500. The Subcommittee developed a proposed resolution in response to the regulations which was adopted by the Council at its October meeting in Austin, Texas. The subcommittee also dealt with the National Pollutant Discharge Elimination System of P.L. 92-500, especially as it relates to irrigation agriculture and forestry.

The Land Use Planning Subcommittee continued to review federal legislative proposals aimed at encouraging and facilitating land use planning. Through the subcommittee, the Council was advised as to the deliberations in the nation's capitol on the subject. The federal proposals were again defeated in the first session of the 94th Congress. The subcommittee also directed the staff to prepare a report on major federal water related programs affecting the use of non-federal lands in order to evaluate the present extent of federal involvement in land use and to determine potential effects of present and proposed legislation on western water resources and administration.

The Subcommittee on State-Federal ~~on State-Federal~~ Water Rights continued to examine federal legislation which would affect water rights and administration in the West. Their efforts resulted in the Council reaffirming its opposition to proposed legislation drafted by the Justice Department that would provide for federal inventorying, quantification, and adjudication of federal water rights, including those claimed under the so-called "implied reservation doctrine." At the subcommittee's recommendation, the full committee and the Council approved resolutions opposing the Hard Rock Mineral Development Act of 1975 and the Mineral Leasing Act of 1975 on the basis that sections of both bills implied the existence of federal reserved rights for mineral development and indicated that the lessee could obtain a water right from the federal government without compliance with state law. The subcommittee also authorized the staff to prepare a report on pending and potential Indian water rights cases in each of the respective member states of the Council.

The Legal Review Subcommittee continued to report on water rights litigation of interest in the West, especially on those cases involving federal claims under the so-called "reservation doctrine." Two cases drew particular attention. The first was the Nevada "pup-fish" case in which the Nevada Federal District Court enjoined landowners adjacent to Death Valley National Monument from pumping water from underneath their lands pursuant to state granted well per-

mits. The purpose of the injunction was to maintain the water level in a small underground pool in order to protect and maintain a species of desert pupfish located in the pool. The other case was the so-called "Akin" case, in which the Tenth Circuit Court of Appeal reversed the lower court's decision to defer to a state court for a general adjudication of water rights claims, including federal reserved rights claims, in the San Juan River, in Colorado. The United States Supreme Court agreed to review both these cases and its decisions are expected to be handed down sometime in 1976.

The authority and procedures under which the Water Policy and Legislative Committee operates were established on April 23, 1970 by the adoption of a Charter. (For a copy of the Water Policy and Legislative Committee Charter, refer to the 1973 Annual Report of the Western States Water Council).

Appointments to subcommittees under the Water Policy and Legislative Committee:

**Water Quality Subcommittee**

Charles B. Roe, Jr., Washington—Chairman; Tom Choules, Arizona; Raphael Moses, Colorado; Hal Smith, Nevada and Howard Way, California.

**Land Use Planning Subcommittee**

Tom Choules, Arizona—Chairman; Hal Smith, Nevada; Ted J. Doney, Montana, and George Hannett, New Mexico.

**Subcommittee on State - Federal Water Rights**

Ted J. Doney, Montana—Chairman; Raphael Moses, Colorado; Tom Choules, Arizona; George Hannett, New Mexico and Harry Pugsley, Utah.

**Legal Review Subcommittee**

Harry Pugsley, Utah.

## RESOLUTIONS—POSITIONS—MOTIONS

### Resolution B

#### Resolution

by

Western Governors Conference  
Concerning the Creation of the  
Western States Water Council  
June 13, 1965

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

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

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

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

### Resolution 43.(1-75)

#### Resolution

of the

Western States Water Council  
Regarding

Proposed Federal Water Rights Legislation  
January 17, 1975

WHEREAS, the United States Department of Justice has drafted proposed federal legislation for the Water Resources Council regarding quantification of federal water rights for introduction in Congress; and



WHEREAS, the Western States Water Council at its meeting September 26, 1974, adopted a position opposing the said proposed legislation; and

WHEREAS, the Council further at that meeting directed the State-Federal Water Rights Subcommittee to have a memorandum prepared by the Council Staff summarizing the present status of the law concerning federal reserved water rights and to obtain the member states' responses to a questionnaire on the said proposed legislation; and

WHEREAS, the memorandum on law has been completed and the State-Federal Water Rights Subcommittee has met on December 10, 1974 and duly considered the responses of the member states and has made its report and recommendations to the Water Policy and Legislative Committee of the Council; and

WHEREAS, the proposed legislation continues to be opposed by all of the member states of the Council; and

WHEREAS, it does not appear that it would be feasible or desirable to attempt to amend the proposed legislation to make it acceptable to the Council,

NOW THEREFORE, BE IT RESOLVED, that the Western States Water Council reaffirms its unanimous opposition to the proposed federal water rights legislation drafted by the Justice Department.

**Resolution 44.(5-75)**

**Resolution  
of the  
Western States Water Council  
Regarding  
The Water Resources Planning Act of 1965  
May 9, 1975**

WHEREAS, the Water Resources Planning Act of 1965 was passed to help meet the rapidly expanding demands for water by encouraging the conservation, development and utilization of water and related land resources through coordinated and cooperative planning efforts; and

WHEREAS, that Act recognized the need for increased state participation in water and land related resources planning and authorized appropriations of \$5 million annually for grants to assist the states in their planning efforts; and

WHEREAS, the states have demonstrated their interest and need for increased grants by consistently over-matching the funds available; and

WHEREAS, the Executive Budget has been prepared; and

WHEREAS, Congress is considering the budget

NOW, THEREFORE BE IT RESOLVED, that the Western States Water Council urges Congress to appropriate the much needed and necessary \$5 million for the 1976 fiscal year.

BE IT FURTHER RESOLVED, that the Western States Water Council recognizes that there is a short three month fiscal year that will start July 1, 1976. The Western States Water Council urges the Congress to take appropriate steps to insure that Title III monies will be appropriated and available for that three month fiscal year period.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the Governors of the eleven Western States, to Congressional Delegates of the eleven Western States and to any other parties of interest and concern as deemed appropriate by the Executive Director.

**Resolution 45.(5-75)**

**Position  
of the  
Western States Water Council  
Regarding  
Revisions to the Water Resource Planning Act P.L. 89-80  
May 9, 1975**

The intent of the 1965 Water Resources Planning Act (P.L. 89-80) " . . . is to provide for the optimum development of the nation's natural resources through coordinated planning of water and related land resources." Funding under that Act, to provide financial assistance to the states to increase state participation in water and related land resource plans, will expire at the end of FY 1976.

The Western States Water Council has reviewed the effect of the Act and has concluded that there is need to continue the Act in principal but there is need to consider modification to the law as it presently exists. Deliberations by the Western States Water Council on this matter are further stimulated by increased demands on planning requirements that have been imposed since the enactment of P.L. 89-80 in 1965.

The Council also takes particular note of the current proposed legislation which would modify P.L. 89-80. The Western States Water Council considers it extremely timely and important that the Congress hold oversight hearings and believes that these hearings should include discussion relating to the following:

**Title I:** Modify this title to include non-federal membership of the Water Resources Council and the law to provide for a chairman independent of involved federal agencies.

**Title II:** Consider the value of encouraging river basin commissions and interagency committees to provide coordination of existing and new land and water resource programs.

**Title III:** Modify this title to provide for the extension of state assistance funding for a longer period and at a substantially increased level considering activities of the Water Resources Council and the increased planning requirements that have been imposed since the adoption of the present law.

**Title IV:** This title should provide additional funding consistent with the modification to Titles I, II and III.

**Resolution 46.(5-75)**

**Resolution  
of the  
Western States Water Council  
regarding  
Proposed Legislation  
To Create an Indian Trust Counsel Authority  
May 9, 1975**

WHEREAS, the Indian Affairs Subcommittee of the Senate Interior and Insular Affairs Committee is presently considering S. 1002 which would create an Indian Trust Counsel Authority completely free of control from any executive department and which would supplant the Departments of Justice and Interior as legal representatives of Indians in any manner concerning their rights or claims to natural resources in which the Authority chose to intervene; and

WHEREAS, the legislation, merely by shifting legal representation from established channels to a new agency free of any executive control, would not resolve the existing complex inter-tribal conflicts of interest in natural resources; and

WHEREAS, such legislation could open the door to countless lawsuits, beclouding land, timber, fishing and water rights, throughout the United States for generations; and

WHEREAS, the proposed legislation could make possible, and perhaps encourage, the filing of many suits to seek review of administrative decisions of the Department of the Interior, thus subjecting the trustees to an unreasonable enlargement of judicial review that could paralyze administrative action; and

WHEREAS, a more straightforward and practical solution to the problem of insuring that Indians have ready access to competent legal representation would be to direct the Interior and Justice Department when conflicts of interest arise, to retain separate private counsel to represent the interests involved.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council oppose S. 1002 and all similar legislation to create an Indian Trust Counsel Authority completely free of executive restraint which could intervene at its discretion to supplant the Departments of Justice and Interior as the legal representative of Indians in matters concerning their rights or claims to natural resources.

**Resolution 47.(5-75)**

**Resolution  
of the  
Western States Water Council  
Concerning Bill S. 282  
(Hardrock Mineral Development Act of 1975)  
May 9, 1975**

WHEREAS, the Senate Interior and Insular Affairs Committee is presently considering S. 282 to enact what would be known as the "Hardrock Mineral Development Act of 1975;" and

WHEREAS, Section 19 of said bill provides as follows: "Upon application of a lessee, the Secretary shall grant the lessee a right to drill for, produce and use so much water subject to Federal ownership, appropriation or utilization on lands subject to his lease as may be needed in connection with activities under his lease, . . ."

WHEREAS, to the extent that this language contemplates granting of a federal water right to use water not yet appropriated and put to beneficial use, it recognizes a water right inconsistent with the water laws of most Western States and implies the existence of federally reserved rights for use by federal mineral interest lessees; and

WHEREAS, the Council opposes the implication of such reserved water rights in connection with federal mineral interests contained in the language cited above.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council oppose the adoption of S. 282 so long as Section 19 is retained in the bill.

**Resolution 48.(10-75)**

**Resolution  
of the  
Western States Water Council  
Concerning Bill H.R. 8435  
(Mineral Leasing Act of 1975)  
Austin, Texas  
October 10, 1975**

WHEREAS, the House Interior and Insular Affairs Committee is presently considering H.R. 8435 to enact what would be known as the "Mineral Leasing Act of 1975;" and

WHEREAS, Section 113 of said bill provides as follows: "Upon application by a lessee, the Secretary may grant the lessee a right to drill for, produce, and use so much water on lands subject to his lease as may be needed in connection with activities under such lease, except where the Secretary determines that the lessee's production and use of such water would adversely affect the existing rights of other water users or have a significant adverse environmental impact. In any case where significant public interest is evident regarding such water use or application therefor, the Secretary shall hold a public hearing and give full consideration to the results thereof in his determinations."

WHEREAS, to the extent that this language contemplates granting of a federal water right to use water not yet appropriated and put to beneficial use, it recognizes a water right inconsistent with the water laws of most Western States and implies the existence of federally reserved rights for use by federal mineral interest lessees; and

WHEREAS, the Council opposes the implication of such reserved water rights in connection with federal mineral interests contained in the language cited above.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council oppose the adoption of H.R. 8435 so long as Section 113 is retained in the bill, or any other provision asserting federal water rights in conflict with state water rights and/or administration.

**Resolution 49.(10-75)**

**Resolution  
of the  
Western States Water Council  
Regarding  
Corps of Engineers' Responsibilities  
Under Section 404 of P.L. 92-500  
Austin, Texas  
October 10, 1975**

WHEREAS, on March 27, 1975, a United States Federal Court in the District of Columbia declared regulations of the United States Army Corps of Engineers pertaining to the interpretations of Section 404 of the Federal Water Pollution Control Act invalid; and

WHEREAS, the Corps, in response to the Court decision, published on July 25, 1975 proposed regulations under Section 404 of said Act which would greatly expand the Corps' traditional regulatory responsibilities in the waters and along the shoreline areas of the various states; and

WHEREAS, most of the states have established and implemented comprehensive planning and regulatory programs pertaining to land use, flood control, and water pollution control for these water and shoreline areas; and

WHEREAS, these recent Corps of Engineers' proposals would establish duplicative, costly, and wasteful federal efforts that not only place undue burdens on the populace generally but create unnecessary confusion and delay in the area of land and water use control while providing little, if any, environmental protection benefits.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council urges Congress to immediately examine the Federal Water Pollution Control Act and (1) amend the definition of "navigable waters" so that the Corps of Engineers is jurisdictionally limited to the traditional definition of navigable waters under the commerce clause of the U.S. Constitution, and (2) amend Section 404 to insure that no federal program administered under it will duplicate state programs designed to control waters of the states, their beds, and adjacent shoreline areas.

BE IT FURTHER RESOLVED that the Western States Water Council strongly urges the Corps of Engineers to administer its regulations to provide methods for maximum delegation to the states where state jurisdiction is exercised in a manner which achieves the environmental protection intended by Section 404 of the Federal Water Pollution Control Act.

BE IT FURTHER RESOLVED that the Western States Water Council commits its full cooperation to the Congress and the Corps in any effort to bring about a joint state-federal program to control dredge and fill activities which utilize the best talents and abilities of both the states and the federal government.

**Resolution 50.(10-75)**

**Resolution  
of the  
Western States Water Council  
Regarding  
Internal Reorganization of the Council  
and the Creation of a  
Management Subcommittee  
and a  
New Subject Area Committee  
Austin, Texas  
October 10, 1975**

WHEREAS, the Executive Committee of the Western States Water Council is presently devoted to matters of Council business and operation.

WHEREAS, it would be desirable to utilize the talents of Executive Committee members in addressing the many vital substantive issues confronting the Council; and

WHEREAS, ordinary matters of Council business and operation could be adequately handled by a smaller group consisting of Council officers; and

WHEREAS, the governing documents of the Council and the committees allow for the creation of new committees and subcommittees.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council create a new committee and a new subcommittee as follows:

(1) A Management Subcommittee of the Executive Committee. This Subcommittee shall decide matters of ordinary business and operation of the Council, and shall consist of the present Chairman of the Council, the immediate past Chairman of the Council, the Vice-Chairman of the Council, the Secretary-Treasurer of the Council, and the Executive Director. Each member of said Management Subcommittee shall have one vote in conducting business. A quorum shall consist of three members and a simple majority of those voting shall prevail. Business matters of an unusual nature shall be referred to the Executive

Committee also by a simple majority of those voting. The Chairman of the Council shall be the Chairman of the Management Subcommittee. Notwithstanding any of the above, the Executive Committee shall retain the power set forth in its present charter as follows: "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."

(2) A new subject area committee. Each member state shall appoint each of its three members to serve on either the Water Resources, the Water Policy and Legislative, or the new committee. Each of these committees shall consist of eleven members. Each state shall have one member on each committee, but any member may be represented at any meeting by an alternate. A quorum of each committee shall consist of six members. A majority of those members of each committee present and voting shall be required for committee action. Each state shall have one vote on each committee. Committee chairmen shall be appointed by the Chairman of the Council and shall serve at his pleasure.

BE IT FURTHER RESOLVED, that the Chairman of the Council be authorized to appoint an ad hoc subcommittee to recommend to the Executive Committee the appropriate work areas for each of the three subject area committees and to suggest appropriate names for each committee.

**Position 51. (10-75)**

**Position Statement  
of the  
Western States Water Council  
Concerning  
The Water Resources Planning Act  
Presented at Hearings of the  
Energy Research and Water Resources Subcommittee  
of the  
Interior and Insular Affairs Committee  
of the  
U.S. Senate  
October 10, 1975  
Austin, Texas**

**Presented October 16, 1975 in Las Vegas, Nevada**

The Water Resources Planning Act of 1965 (P.L. 89-80) has been in operation for ten years and the Western States Water Council acknowledges that it is now most appropriate that the Congress review the Act, its policies, and its accomplishments.

I am Jack A. Barnett, Executive Director of the WSWC. At a Council meeting this past week a position was adopted regarding the Water Resources Planning Act and I have been asked to present the Council's statement at these most important hearings.

The Western States Water Council, through its staff and its members, has considered this subject extensively from the states' viewpoint over a period of many months. Council members, designees of the eleven western governors, have discussed, in detail, every title of the Act. Participating in the discussions have been water resource planners and those most closely associated with the Water Resources Planning Act.

We have formally resolved our support on various occasions in the past for the full \$5 million funding of Title III of the Act. The May 9, 1975 position of the Council with respect to this subject is attached and marked as Exhibit A for your review and consideration.

The Council appreciated the opportunity to appear before this Subcommittee on July 10. Our comments at that time are a part of the record. Our testimony today is intended to be more comprehensive, more precise and more responsive to questions that were addressed to the Council by a letter from Chairman Church following the July 10 hearings.

#### Mission of the Council

Over the life of the U.S. Water Resources Council, there has been some criticism and some concern over the effectiveness of the Council. The manner in which public and state comments are or are not allowed in the Council's deliberations has also raised some questions. We find that the reason for some of these controversial areas is a lack of clarity as to the purpose and mission of the U.S. Water Resources Council. At this time we believe the U.S. Water Resources Council should have three main purposes: (1) to perform the function of advising the President on water resource matters as the President determines administrative positions; (2) to serve as a coordinating entity for various federal agencies and departments that are administering water resource activities, and to provide coordination within river basins; and (3) to serve as the vehicle to administer and distribute federal funds for state water resource planning efforts and provide an opportunity for the exchange of information, positions and ideas between the Federal Government and the fifty sovereign states.

We suggest that the Congress consider limiting or abolishing the role of the Water Resources Council staff in the area of functional planning. Planning efforts by the Water Resources Council staff are viewed as self-perpetuating and duplicative of planning by other independent

agencies of the Federal Government. Many agencies have significant on-going water resource planning programs with large, well staffed organizations. We doubt that significant contributions to water resource utilization, development and conservation can be accomplished by a separate and independent planning program within the staff of the Water Resources Council.

Many have been critical because the Council has no significant accomplishments in areas outside of these three stated purposes, including the setting of various levels of water policy. We do not believe that the U.S. Water Resources Council should attempt to set a *national* water policy. The Council can help formulate a policy proposed by the administration. *Federal* water policy should be determined by the Congress after input from the Administration, and after listening to state and private advice. *National* water policy can only be implemented in concert with federal-state-local governments, and private interests.

#### Membership of the Council

Senator Church has asked us to address the concept of adding non-federal members to the Water Resources Council. It is a difficult question and we, as representatives of the eleven western states, have struggled with it in our discussions. We feel it absolutely imperative that states be informed and that states' views be considered. We find in many instances effective communication has not been accomplished in the past. States have not been advised of Council meetings and of the agenda items with sufficient lead time to give adequate response. States have not been provided with the background material that is available to the Council members when issues of interest to the states are considered. For states to effectively communicate, a reasonable amount of lead time is required. In the past we have found that often notice and agendas are provided within the week of the meetings.

On occasion, efforts have been made by the Water Resources Council to seek a joint states' point of view from a single source. States cannot be amalgamated or coordinated through a single multi-state entity for official response and reaction. There are fifty sovereigns. Despite this, states have on occasion, expended a considerable amount of state funds and effort to ensure that appropriate state officials are in Washington, D.C. to observe and hopefully participate in Council meetings. Often little or no time is afforded single state representatives. On some occasions, as the Council announces a closed door session, state officials have been asked to leave for a major portion of the meetings.

We recognize that the Council is providing the President with advice in the formulation of administrative policy and functioning in many respects as a sub-cabinet body. When the U.S. Water Resources Council

is acting in this role, we feel it would be inappropriate to have non-federal members on the Water Resources Council. However, when the Council operates internally in an effort to be better informed in advising the President, there is still a great need to improve the input and interchange of ideas between the Council and state governments.

After there has been an opportunity for exchange of ideas and information between the Water Resources Council and state representatives, we acknowledge that there may be the need for some executive or closed sessions as the Council prepares to take action in its role as advisor to the President. However, it would seem that the need for these executive sessions is infrequent and should be substantially limited.

It would be impractical to have a Water Resources Council large enough to allow each state an independent vote. Because of this and the other reasons cited, we do not recommend non-federal voting membership on the U.S. Water Resources Council. States have representation in the Congress and if there is to be *Federal* policy on water resources matters the states can express themselves through their elected officials. However, there must be better ways to provide for early communication on water resource matters between the Water Resources Council and the states. We would suggest one way to accomplish this would be for the President to appoint four state observers who would attend all Council meetings on a regular basis. These observers could be appointed on a regional basis; the South, the New England area, the mid-West and the West. If these state observers were given formal recognition and status in revised enabling legislation, their costs and expenses paid and their membership assured, a significant amount of cooperation and coordination could be accomplished.

#### Council Chairman

The Western States Water Council believes that the present structure of the U.S. Water Resources Council has been a major factor in reducing the effectiveness of the Chairman and the Director of the Council. We feel that the Chairman of the Water Resources Council should be the Executive Officer of the Council, and it should be his responsibility to see that the Council functions successfully. The Chairman should be appointed directly by the President. He should serve the President and the White House, and his employment should be on a full time basis. In the present situation the Chairman has been able to devote only part time attention to the affairs of the Council. In fact, we have learned that his participation in Council meetings or preliminary Council discussions is very infrequent. Further, it is difficult for an administrator of a single agency to impose upon other agencies the necessary coordinating efforts envisioned by the Act. These can only be implemented by authority delegated by the President.

#### Title III Goals

State water resource planning capabilities have been significantly increased since the Water Resource Planning Act was enacted. Title III of the Act and the federal funds provided have surely been a catalyst to help encourage and facilitate the developing of the very capable state water resource planning staffs. States, however, have contributed many more dollars to this effort than those provided by Title III of the Act and now have planning staff members assigned to full-time efforts relating to interstate and national forums.

Administration officials testifying in Washington, D.C. before the Subcommittee on July 10, inferred that Title III of the Water Resources Planning Act was enacted so that states might develop a water resource planning capability. Although this is a beneficial by-product of the Act, we do not believe that this was the sole purpose intended by Congress when Title III was drafted. In fact, a close review will disclose that the concept of building state planning capabilities is not discussed in Title III of the Act. Instead, the Act provides that the funds will be used in developing and participating in the development of comprehensive water and related land use planning. If the states are to continue to participate with the federal government in comprehensive water and related land use planning, continuing funds will be needed for this purpose.

If the Federal Government were to terminate its funding, we feel there could be some significant harmful effects. Some states would find it difficult under current economic pressures to convince state legislatures that state funds should be continued without the matching federal dollars and that the level of state appropriation should be increased to compensate for federal withdrawal of support. As a result, funds for states' use in water resource planning would be available in smaller quantities. Very capable planners would have to be terminated from state employment. States would find that they could not be responsive to requests from federal agencies to participate in planning efforts, to travel to Washington, D.C., and to comment on the multitude of natural resource hearings and forums that are, and will be occurring.

The first sentence of the Water Resources Planning Act concludes by stating that the Act is to provide a "financial assistance to the States in order to increase State participation in such planning." Curtailment of these funds would reduce state participation; and we believe that in the interest of the nation, reduced state participation should not be contemplated at this time.

In addition to the interstate and federal coordination and participation effort, Title III funds are used specifically in states to develop

a better understanding of the water resources available, and to plan for the best use and management of those resources. Representatives of western states will testify at this hearing with respect to their individual needs, and their use of Title III funds.

#### Title III Termination?

The Western States Water Council finds that Title III of the Act has been successful. Water resource planning does not result in a final product. Planning efforts must be ongoing as natural resource issues become more complex, and must be extended and modified as needs and desires shift in areas such as food and energy production. There is today, even more than ten years ago, a need for a concerted effort to coordinate water resource planning with other planning. These coordinated efforts require significant input from private interest groups and local governments. These coordinated efforts also require a free and open exchange between states and water users in various river basins and between the Federal Government and the fifty independent states. For this reason, it does not seem wise to place a termination date, or expiration date on Title III funding.

#### Level of Funding

We believe that the level of funding for Title III should be examined on a periodic basis. However, one of the previous drawbacks to the use of Title III funding by the states has been the uncertainty of appropriation. Therefore, we feel that a specific minimum level of funding should be set for a specific period of time. We suggest that a five year period is appropriate since state agencies must be able to advise state legislators of future levels of federal funding so that state matching dollars can be anticipated and provided.

Significant demands are being placed on states to respond to federal inquiries and directives. These demands are much greater than they were when the Act was implemented. We therefore suggest that for the next five years a minimum funding level of \$10 million per year be established. This appropriation should be assured so that states may accurately project the dollars available to them.

#### Summary

We believe that many significant and difficult western natural resources decisions will have to be made in the coming decades. Foremost are decisions relating to the use of limited western water resources. In order to participate more effectively in these planning and decision making processes, the Congress should modify the Water Resources Planning Act to provide a more independent and effective chairman of the Council and to provide some federal to help assist states as they participate in ongoing efforts with interstate and federal organizations.

#### **Other Resolutions**

##### **Resolution of the Western States Water Council Regarding Floyd A. Bishop**

WHEREAS, Floyd A. Bishop, distinguished engineer and former State Engineer from the State of Wyoming, has served diligently as a member of the Western States Water Council and its Executive Committee since its formation in 1965, and

WHEREAS, he was appointed to the original Activities Committee in 1967 and served as Secretary-Treasurer of the Council from April 1970 to July 1973, and

WHEREAS, his broad knowledge of the West and its water problems brought him the respect and admiration of state and national leaders and promoted a better understanding among representatives of the Western States and contributed greatly to the progress that has been made by the Council.

NOW, THEREFORE BE IT RESOLVED that the Western States Water Council through its members assembled in Austin, Texas this 10th day of October, 1975, expresses its sincere appreciation to him for his many contributions toward achievement of the Council's purposes.

##### **Resolution of the Western States Water Council Regarding Tucson Myers**

WHEREAS, Tucson Myers, prominent water administrator and representative from the State of Oregon served with distinction as a member of the Western States Water Council from November 1973 to September 1974, and

WHEREAS, he effectively served his State as a member of the Water Resources Committee during his tenure on the Council, and

WHEREAS, his interest in Western States water problems and the need for water for energy helped to promote a better understanding among representatives of the Western States.

NOW, THEREFORE BE IT RESOLVED THAT the Western States Water Council assembled in Austin, Texas, this 10th day of October, 1975, express to him sincere thanks and appreciation for his many contributions and wishes him continued success.

**Resolution  
of the  
Western States Water Council  
Regarding  
T. W. Ten Eyck**

WHEREAS, T. W. Ten Eyck, Executive Director of the Department of Natural Resources and distinguished representative from the State of Colorado has served as a member of the Western States Water Council since January 1, 1969, and

WHEREAS, he served with diligence and made meaningful contributions to the Water Resources Committee from January 1969 to July 1969 and to the Executive Committee from July 1969 to June 1975, and

WHEREAS, his keen comprehension of the West and its water problems and his excellent judgment have contributed greatly to a better understanding among representatives of the Western States.

NOW, THEREFORE BE IT RESOLVED THAT the Western States Water Council assembled in Austin, Texas, this 10th day of October, 1975 wishes to express its sincere appreciation to him for his contributions toward achievement of the Council's purposes.

**Resolution  
of the  
Western States Water Council  
Regarding  
John R. Teerink**

WHEREAS, John R. Teerink represented the State of California with distinction and used his ability to communicate and work with others for the benefit of the Western States Water Council as a whole, and

WHEREAS, he served on the Executive Committee during his tenure with the Council from September 1973 to March 1975, and

WHEREAS, his knowledge and excellent judgment helped to promote a better understanding among representatives of the Western States and contributed greatly in assisting the Council broaden its program during 1973 and 1974.

NOW, THEREFORE BE IT RESOLVED THAT the Western States Water Council assembled in Austin, Texas, this 10th day of October 1975, express its sincere appreciation for his many contributions toward achievement of its purposes.

**APPENDIX A  
RULES OF ORGANIZATION**

**APPENDIX A  
RULES OF ORGANIZATION**

**Article I—Name**

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

**Article II—Purpose**

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

**Article III—Principles**

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

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

**Article IV—Functions**

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

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

**Article V—Membership**

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



**Article VI—Ex-Officio Members**  
The Governors of the member states shall be ex-officio members and shall be in addition to the regularly appointed members from each state.

**Article VII—Officers**

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

**Article VIII—Selection of Officers**

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

**Article IX—Executive Committee**

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

**Article X—Voting**

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

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

**Article XI—Conduct of Meetings**

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

**Article XII—Meetings**

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

**Article XIII—Limitations**

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

Congress for either authorization or appropriation.

**Article XIV—Amendment**

These articles may be amended at

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

**PRINCIPLES—STANDARDS—GUIDELINES**

**PREAMBLE**

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

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

**1.0 PRINCIPLES**

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

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

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

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

fullest practicable extent in an efficient manner in accord with the needs and types of use in the particular area.

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

1.1.5 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.

1.1.6 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.

1.1.7 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.

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

1.2 Regional water planning should be designed to avoid interference with existing rights to the use of water. Any taking of land or water rights shall be

governed by the law of eminent domain. Interstate compact allocations shall be honored.

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

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

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

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

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

1.3.2 In making determinations of possible surplus water, all water-related needs of the States and areas of origin, including but not limited to: irrigation, domestic, stock, municipal, industrial, flood control, power, navigation, recreation, water quality control, fish and wildlife preservation and enhancement, and aesthetic enjoyment shall be recognized.

1.3.3 All water requirements, present or future, for uses within the drainage area of any river basin, shall have priority and right in perpetuity to the use of the waters of that river basin, for all purposes, as against the uses of

water delivered by means of such exportation works, unless otherwise provided by treaty, interstate agreement or compact.

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

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

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

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

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

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

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

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

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

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

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

2.4 In order to provide the uniformity necessary to facilitate compilation and analysis of the various state-wide water plans, it is recommended that such plans contain projects of usable water resources and an inventory of need for the years: 1980, 2000, 2020, 2040.

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

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

3.1 Interstate Exchange of Information and Data.

3.1.1 When a state publishes reports or takes any action which may affect the plans or objectives of other States, the affected States and the Western

States Water Council staff should be furnished copies thereof. Request for basic data and supporting information should be initiated by the State needing the data or information.

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

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

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

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

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

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

3.1.4.4 Major legal and administrative decisions pertaining to water resources.

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

3.2 Correlation of Plans and Schedules.

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