

**1983**  
**ANNUAL REPORT**  
**OF THE**  
**WESTERN STATES**  
**WATER COUNCIL**

**Eighteenth Annual Report**

## TABLE OF CONTENTS

### MEMBERSHIP

Arizona .....	iii
California .....	iii
Colorado .....	iv
Idaho .....	iv
Montana .....	v
Nevada .....	v
New Mexico .....	vi
Oregon .....	vi
Texas .....	vii
Utah .....	vii
Washington .....	viii
Wyoming .....	viii

### OFFICERS

Photograph .....	ix
------------------	----

### MEMBERS IN ATTENDANCE AT THE KALISPELL, MONTANA

MEETING Photograph .....	x
--------------------------	---

PAST OFFICERS AND EXECUTIVE DIRECTORS .....	xi
---	----

STAFF Photograph .....	xii
------------------------	-----

ANNUAL REPORT .....	1
---------------------	---

RESOLUTION concerning Ground Water Policy .....	5
---	---

RESOLUTION concerning EPA's National Municipal Policy .....	6
---	---

POSITION concerning Federal Energy Regulatory Commission Licensing .....	6
---	---

POSITION regarding Federal Water Project Cost Sharing (Financing and Repayment) .....	13
--	----

RESOLUTION concerning Clean Water Act Funding Under Section 106 (a) .....	15
--	----

POSITION regarding Reclamation Safety of Dams Act of 1978 .....	16
--	----

RESOLUTION concerning State Water Rights Filing By Federal Agencies .....	16
--	----

### APPROVED

ADDITION to the RULES OF ORGANIZATION concerning Associate Member States .....	17
---	----

POSITION regarding EPA's Proposed Revisions of Water Quality Standards Regulations .....	17
---	----

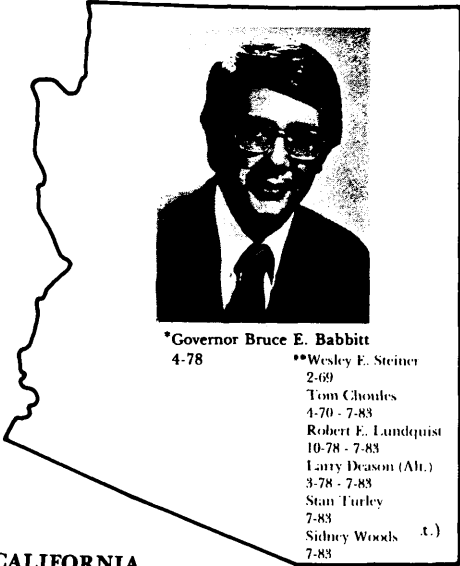
RESOLUTION regarding Non-Point Source Amendment of the Federal Clean Water Act .....	19
---	----

## TABLE OF CONTENTS (con'd.)

BUDGET AND FINANCE .....	20
AUDITOR'S STATEMENT .....	21
GENERAL FUND .....	22
EXECUTIVE COMMITTEE CHARTER .....	23
EXECUTIVE COMMITTEE MEMBERS .....	24
EXECUTIVE COMMITTEE MEMBERS PHOTOGRAPH .....	26
LEGAL COMMITTEE CHARTER .....	27
LEGAL COMMITTEE MEMBERS PHOTOGRAPH .....	28
WATER QUALITY COMMITTEE CHARTER .....	29
WATER QUALITY COMMITTEE MEMBERS PHOTOGRAPH .....	30
WATER RESOURCES COMMITTEE CHARTER .....	31
WATER RESOURCES COMMITTEE MEMBERS PHOTOGRAPH .....	32
RULES OF ORGANIZATION .....	33
PRINCIPLES - STANDARDS - GUIDELINES .....	36
ADDRESSES AND TELEPHONE NUMBERS .....	39

1983  
**WESTERN STATES WATER COUNCIL  
 MEMBERSHIP**

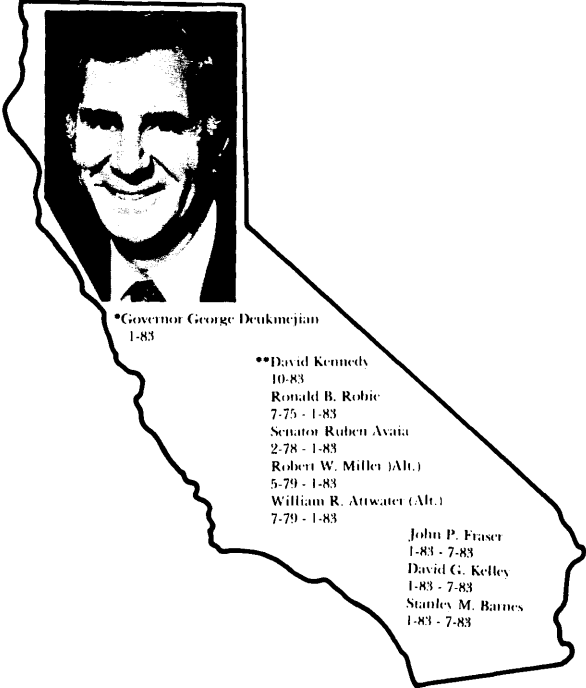
**ARIZONA**



**\*Governor Bruce E. Babbitt**  
 4-78

- \*\*Wesley E. Steiner**  
 2-69
- Tom Choules  
 4-70 - 7-83
- Robert E. Lundquist  
 10-78 - 7-83
- Larry Deason (Alt.)  
 3-78 - 7-83
- Stan Turley  
 7-83
- Sidney Woods (A.)  
 7-83

**CALIFORNIA**



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

- \*\*David Kennedy**  
 10-83
- Ronald B. Robic  
 7-75 - 1-83
- Senator Ruben Avala  
 2-78 - 1-83
- Robert W. Miller (Alt.)  
 5-79 - 1-83
- William R. Attwater (Alt.)  
 7-79 - 1-83
- John P. Fraser  
 1-83 - 7-83
- David G. Kelley  
 1-83 - 7-83
- Stanley M. Barnes  
 1-83 - 7-83

## COLORADO



\*Governor Richard D. Lamm  
1-75

\*\*David H. Getches  
12-83  
D. Monte Pasco  
4-80 - 10-83  
J. William McDonald  
10-79  
Gary Broetzman  
9-80  
Jeris Danielson (Alt.)  
4-80  
Dennis Montgomery (Alt.)  
4-80 - 10-83  
Bill Paddock (Alt.)  
10-83

## IDAHO

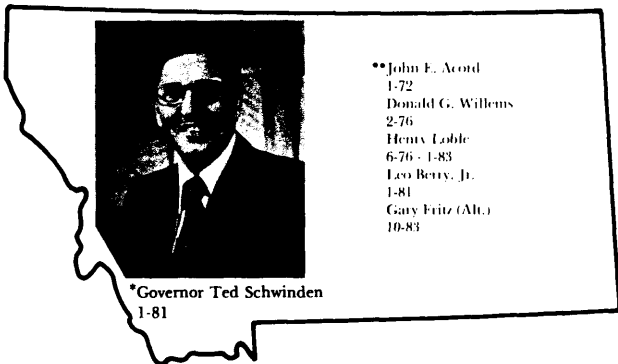
\*\*A. Kenneth Dunn  
Herman J. McDevitt  
4-72 - 7-83  
Ray Rigby  
2-73



\*Governor John V. Evans  
1-77

Steve Allred  
7-73 - 1-83  
Cy Young (Alt.)  
2-73 - 10-83  
Gene Gray  
10-83  
Wayne Haas (Alt.)  
10-83  
Lee Stokes (Alt.)  
10-83

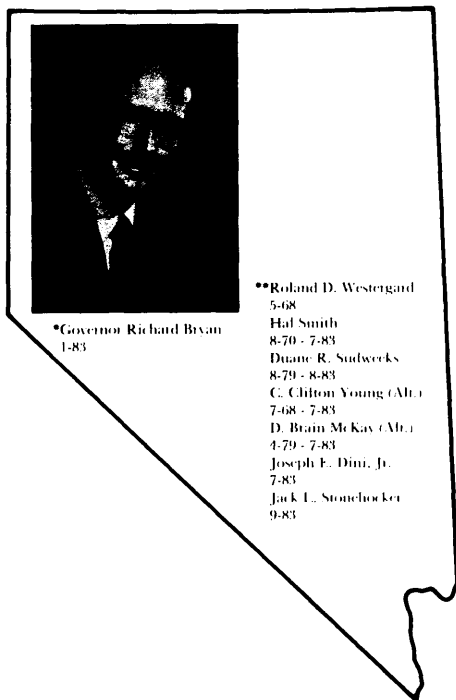
## MONTANA



••John E. Acord  
1-72  
Donald G. Willems  
2-76  
Henry Loble  
6-76 - 1-83  
Leo Berry, Jr.  
1-81  
Gary Fritz (Alt.)  
10-83

\*Governor Ted Schwinden  
1-81

## NEVADA



••Roland D. Westergard  
5-68  
Hal Smith  
8-70 - 7-83  
Duane R. Sudweeks  
8-79 - 8-83  
C. Clifton Young (Alt.)  
7-68 - 7-83  
D. Bram McKay (Alt.)  
4-79 - 7-83  
Joseph E. Dini, Jr.  
7-83  
Jack L. Stonelocker  
9-83

\*Governor Richard Bryan  
1-83

## NEW MEXICO



\*Governor Toney Anaya  
1-83

\*\*S. F. Reynolds  
6-65  
George Hammett  
8-73 - 1-83  
Odis L. Echols  
11-75  
David P. Hale (Alt.)  
6-65 - 1-83  
Richard Simms  
1-83

## OREGON



\*Governor Victor Atiyeh  
1-79

\*\*William H. Young  
3-79  
James E. Sesson  
3-79 - 10-83  
George Proctor  
3-79  
Pat Amedeo (Alt.)  
3-79 - 10-83  
Kip Lombard  
1-83

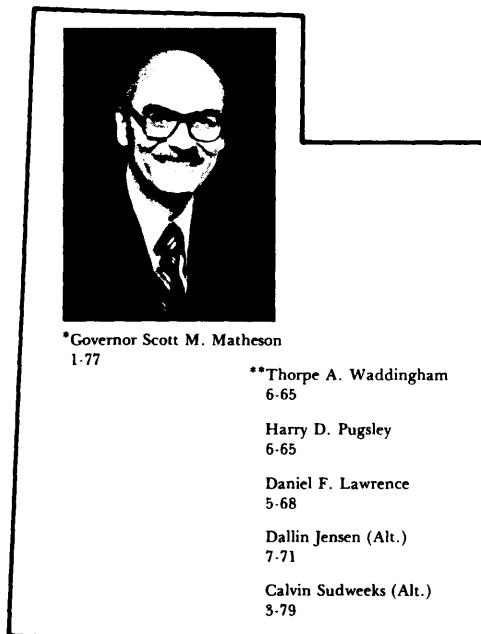
## TEXAS



\*\*Charles F. Nimitz  
10-78  
Bill Clayton  
10-78 - 10-83  
A.L. Black  
10-78 - 10-83  
John T. Montford  
10-83  
Fred Pfeiffer  
10-83

\*Governor Mark White  
1-83

## UTAH



\*Governor Scott M. Matheson  
1-77

\*\*Thorpe A. Waddingham  
6-65

Harry D. Pugsley  
6-65


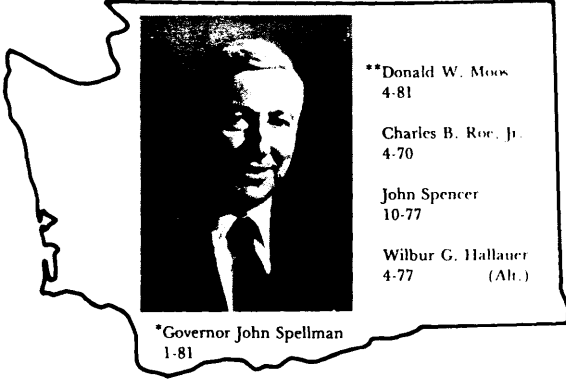
Daniel F. Lawrence  
5-68

Dallin Jensen (Alt.)  
7-71

Calvin Sudweeks (Alt.)  
3-79



## WASHINGTON



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


**Charles B. Roe, Jr.**  
4-70

**John Spencer**  
10-77

**Wilbur G. Hallauer**  
4-77 (Alt.)

**\*Governor John Spellman**  
1-81

## WYOMING



**\*\*George L. Christopoulos**  
4-75

**Myron Goodson**  
6-65 - 3-83

**Willard C. Rhoads**  
3-67

**Walter White**  
3-83

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

\*Governor Member

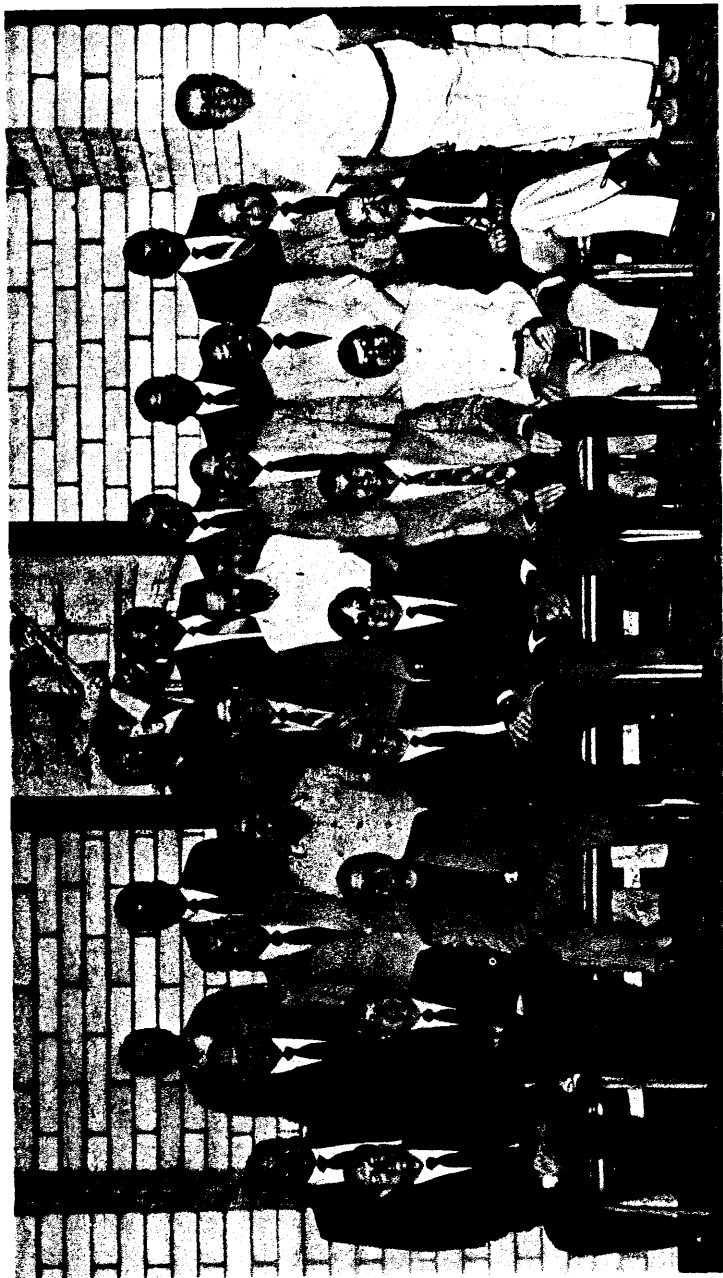
\*\*Executive Committee Member

## MANAGEMENT COMMITTEE



Back Row: D. Craig Bell, Executive Director; Charles E. Nemir, Past Chairman;  
John Spencer, Vice-Chairman.  
Seated: Ray Rigby, Chairman.

## Council Members at Kalispell, Montana Meeting - July 1983



Back Row: Left to right, Vern Fahy, David Kennedy, Kip Lombard, Gene Gray, Harry Pugsley, Charlie Nemir, and Ken Dunn.  
Middle Row: Dan Lawrence, Cal Sudweeks, Glen Fiedler, David Kelley, Jack Acord, A.L. Black, Tom Choutas, Don Willems, George Christopoulos, and Wes Steiner.  
Front Row: Larry Wolfe, George Proctor, Ray Rigby, John Spencer, Reese Peck, Bob Lundquist, Gary Broetzman, and Willard Rhoads.

## OFFICERS

CHAIRMAN	VICE-CHAIRMAN	SECRETARY/TREASURER
John Spencer 7-83	Jack Acord 7-83	Roland D. Westergard 7-80
Ray W. Rigby 7-82	John Spencer 7-82	

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

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

The following have served as Executive Director:

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

Council Headquarters are located at:

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

### STAFF

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



Back Row: Norman Johnson, Craig Bell, Tony Willardson  
Front Row: Joyce Sanchez and Marjorie Farmer  
Not Pictured: Pearl Pollick and Richard Smith

# 1983 ANNUAL REPORT of the WESTERN STATES WATER COUNCIL

The Western States Water Council (WSWC) was created in June of 1965 by western Governors attending a Western Governor's Conference (WGC) meeting. The stated purpose of the Council was to accomplish effective cooperation among the participating states in planning for programs leading to integrated development by state, federal and other agencies of their water resources. For 13 years, the WSWC consisted of eleven western states. The State of Texas petitioned for membership and in 1978 was admitted, bringing Council membership to include: ARIZONA, CALIFORNIA, COLORADO, IDAHO, MONTANA, NEVADA, NEW MEXICO, OREGON, TEXAS, UTAH, WASHINGTON and WYOMING. During 1983 the Council members amended Council bylaws to provide for allowing non-member states to participate as "associate member" states. NORTH DAKOTA, SOUTH DAKOTA, and ALASKA are currently associate members. Associate members cannot vote on Council matters, but representatives receive Council mailings and positions and may participate in Council meetings.

Each member Governor serves on the Council in an ex-officio capacity. He also has the opportunity of appointing three representatives from his state, and as many alternates as he deems necessary, to serve on the Council at his pleasure. State representatives are appointed to working committees, with one representative per state also appointed to the Executive Committee which attends to internal needs and duties. The working committees are the Legal Committee, the Water Quality Committee and the Water Resources Committee, each mainly concerned with issues as their committee names imply. Each working committee is directed by a committee chairman and vice-chairman. Committee chairmen, in turn, name special subcommittees and designate a subcommittee chairman to study particular issues of concern.

The WSWC offices are in Salt Lake City, Utah. The staff is headed by D. Craig Bell, Executive Director. Working with Mr. Bell are Tony Willardson, Associate Director and Norman K. Johnson, Legal Counsel, and a secretarial staff including Pearl Pollick, Joyce Sanchez, and Marjorie Farmer. Richard A. Smith, Staff Engineer, took a leave of absence beginning in March of 1983 to accept a position as Parsons Overseas OMT Project Manager in Bangkok, Thailand.

The Council represents western governors on water policy issues. Positions taken and resolutions passed at the quarterly meetings of the Council appear in this report. Meetings are held on a rotational basis in the member states with state representatives acting as hosts to the other Council members and their quest speakers. Meetings were held in 1983 in the following places: McAllen, Texas - January 13-14; Eugene, Oregon - April 21-22; Kalispell, Montana - July 28-29; and Santa Fe, New Mexico - October 20-21. Guests are welcome at the quarterly meetings, and information on meeting locations and agenda items can be obtained by writing or calling the Council offices. Guest speakers are scheduled according to the relevant subjects to be considered at each quarterly meeting.

At the January 13-14 meetings in McAllen, Texas, Carol E. Dinkins, Assistant Attorney General, Land and Natural Resources Division, Department of Justice, and Theodore Olson, Assistant Attorney General, Office of Legal Counsel, Department of

Justice, were special guests. They spoke at an informal meeting on Wednesday evening about Mr. Olson's opinion on federal water rights, as well as various other water right matters in which the Justice Department is involved.

Dr. Thomas Bahr, Director of the Department of Interior's Office of Water Policy, also spoke at the Thursday meeting. He discussed activities of his office. Other speakers at the meetings included Errol Tyler, Associate Counsel for the House Public Works Committee, and Russell Brown, Staff to the Senate Energy and Natural Resources Committee. They briefed the Council on water resource issues and priorities in the 98th Congress. In addition, Marion Mlay, Deputy Director of EPA's office of Drinking Water, discussed the status and development of EPA's ground water policy. Lastly, Dr. Herb Grubb highlighted activities of the Texas Department of Water Resources.

Frank DuBois, Deputy Assistant Secretary for Interior of Land and Water Resources, was a special guest at the April 20-22 meetings in Eugene, Oregon. He spoke on the Bureau of Land Management's Manual of Procedures which is used in seeking water for the management of federal lands. Dr. Bahr again participated in meetings of the Council's working committees. He stated that more than a hundred responses were received to Interior Secretary James Watt's request for comments on cost sharing, but there was strong, almost unanimous, opposition to up-front financing requirements and similar opposition to the application of new policy changes to currently authorized projects. Hal Furman, Special Assistant to the Bureau of Reclamation Commissioner, spoke on reclamation activities. Oregon State Representative Kip Lombard, a new Council member, spoke on the role which the Council has and should play in educating legislators and providing them with the expertise necessary to knowledgeable consider water policy matters.

The meeting in Kalispell, Montana on July 28-29 had many federal visitors. Assistant Secretary of Interior, Garrey Carruthers, met with the Executive Committee to discuss Administration policy relative to water project financing and cost sharing. Interior Solicitor William Coldiron; Quentin Edson, Chief of the FERC Hydropower Licensing Division; Bob Broadbent, Commissioner of the Bureau of Reclamation; and James Spears, Special Assistant of the Assistant Attorney General, Land and Natural Resources, Department of Justice, spoke at the Council meetings. The discussions involved FERC hydropower permitting and licensing procedures as they relate to states' authority to allocate water resources, implementation of the new reclamation reform law, and significant legal issues presently being considered by the Justice Department and the Solicitor's Office in the Department of Interior. Council members also discussed recent general adjudication proceedings in the West and recent Supreme Court decisions.

The Honorable Bruce Babbitt, Governor of Arizona, highlighted the October 19-21 meetings in Santa Fe, New Mexico by addressing the Council on important issues of current concern, including ground water management, cost sharing and Indian water rights. William Gianelli, Assistant Secretary of the Army (Civil Works), spoke on the Administration's water policy, including the need for expanded non-federal cost sharing, and the Army Corps of Engineer's efforts towards regulatory reform under Section 404 of the Clean Water Act. Bureau of Reclamation Commissioner Robert Broadbent also briefly addressed the Council. Hal Brayman, Assistant Staff Director for the Senate Environment and Public Works' Committee, discussed

pending water resources legislation in Congress. Robbi Savage, Executive Director of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), addressed members on various aspects of proposed Clean Water Act legislation. Timothy Weston, Associate Secretary of the Pennsylvania Department of Environmental Resources, described the recently adopted position of the Interstate Conference on Water Problems on water project financing. Joseph Membrino, a member of the Federal Water Policy Advisory Group, met with the Legal Committee and discussed the advantages of Indian water rights negotiations.

In addition to the Council's formal positions and resolutions adopted at the regular quarterly meetings, several other important activities were undertaken or completed in 1983.

In January, the Council distributed a recently completed report by staff entitled *Water for Energy - 1982 Update*, evaluating water demands for projected energy development. In February by request of the Western Governors Conference staff, the WSWC staff completed a paper entitled *Water and Agriculture in the West*, discussing the importance of western agriculture, the limitations imposed by water availability, potential new sources of water, water quality considerations, and water use efficiency.

Other important efforts in 1983 included briefing Council members on promulgation of regulations implementing 1981 Amendments to the Endangered Species Act, which were of particular interest to the Council due to conflicts between federal protection measures and state water allocation decisions. The Council also undertook various other tasks to prepare briefing materials and evaluate different water resource issues and reports at the request for the WGC and the Western Governors Policy Office, (WESTPO), and the Council of State Planning Agencies. Also, where appropriate, the Council staff coordinated its efforts with those of the National Governors' Association Water Management Subcommittee, the Interstate Conference on Water Problems (ICWP), the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), the National Water Resources Association (NWRA) and the Conference of Western Attorneys General (WAG).

During 1983 three *amicus* briefs were prepared by the staff which were endorsed by various western states in litigation before the United States Supreme Court involving important western water issues. The cases were: (1) *National Audubon Society v. City of Los Angeles*, in which the Supreme Court denied a writ of petition for *certiorari* seeking review of a California Supreme Court holding that, in California, the public trust doctrine provides a basis independent of the appropriation doctrine for review of a vested appropriative water right; (2) *Nevada v. United States*, where the Supreme Court held that *res judicata* prevented the United States and the Pyramid Lake Paiute Indian Tribe from relitigating Indian water claims which had been earlier determined in a state general adjudication proceeding; and (3) *Arizona v. San Carlos Apache Tribe*, where the Supreme Court reaffirmed its decision in *Colorado River Water Conservation District v. United States* (the *Akin* case) that state courts are the favored forum for adjudication of Indian water rights, regardless of the limitations of State Enabling Acts or other federal policies to the contrary.

In May 1983, the Council addressed the important issue of cost sharing through a Special Subcommittee on Water Project Financing. Responding to a call for comments on the Administration's cost sharing policy by James Watt, Secretary of Interior and Chairman of the Cabinet Council on Natural Resources and Environment, the



subcommittee prepared a letter which was approved by the Executive Committee as an internal Council policy position for use by individual member states. Further work by the subcommittee and staff culminated in a cost sharing policy position adopted by the Council in April in Eugene, Oregon. A parallel position was later adopted by the WGC. Another product of these efforts was a policy paper by Staff entitled *Federal Water Resource Development Financing and Cost Sharing: A Western State Perspective*.

While a moratorium on federal funding of new water project starts continued, significant funds were appropriated in 1983 for continuing construction of authorized projects. The Council prepared and distributed to members briefing materials on water resources appropriations legislation, on a special jobs bill with water project funding, on a proposed new starts bill, and on pending Corps omnibus authorization bills.

In June, the Council testified before the Senate Environment and Public Works Committee on federal dam safety legislation, and in response to a request from committee staff for more information, undertook a state-by-state survey of non-federal dam safety needs.

In November the Council, the American Bar Association, and WAG co-sponsored a well attended workshop held in San Diego, California. Topics discussed were recent developments in water rights law including general adjudications, equitable apportionment, reserved water rights, and the "public trust" doctrine.

Also in 1983, under contract with the Western Governors Policy Office, the Council staff prepared an extensive report entitled *Indian Water Rights in the West*. The main topics of discussion in the report were: water in the West, western water law, Indian water right issues, the potential quantity of Indian water rights, attempts to quantify Indian water rights (litigation, legislation, and negotiation), and effects of unquantified Indian water rights. Under the same contract, the Council expanded the scope of a pending report on state water conservation efforts, which was completed and published in December as *Water Conservation and Western Water Management*. The paper discussed the benefits and limitations of water conservation, related western water law, and state water conservation activities.

Of special note, on December 16, the Council published the 500th issue of WESTERN STATES WATER, a weekly newsletter. The first issue was printed May 14, 1974. It has proven to be a valuable service to keep Council members and others up to date on water resource issues.

Following are positions taken and resolutions passed by the WESTERN STATES WATER COUNCIL during 1983.

RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL  
CONCERNING  
GROUND WATER POLICY  
McAllen, Texas  
January 14, 1983

*WHEREAS, a draft proposed ground water policy has been developed by EPA and submitted to the Cabinet Council on Natural Resources and Environment for review; and*

*WHEREAS, western states have extensive ground water planning and management experience, recognize the importance of ground water resources to the national health and welfare, and realize the exigency of protecting ground water for present and future needs; and*

*WHEREAS, the draft policy outlines federal and state roles-- recognizing the central and critical role of the states in future efforts to protect this resource; and*

*WHEREAS, the states have heretofore had limited input in development of the draft policy.*

*NOW THEREFORE BE IT RESOLVED, that the Western States Water Council strongly urges EPA to more actively seek state participation in any future decision making, particularly with respect to implementation of any policy; and*

*BE IT FURTHER RESOLVED, that the Western States Water Council strongly supports the following concepts, which are incorporated in the draft policy, and urges their adoption:*

- (1) State and Local Governments have responsibility for ground water management, both quantity and quality.*
- (2) Any national ground water policy must be a joint federal/state effort, also recognizing the role of local and regional (interstate) government units.*
- (3) Any national policy should be built upon individual state strategies and responsibility for ground water use, management and protection.*
- (4) The states should be allowed maximum flexibility in developing voluntary state strategies which recognize state and regional differences within federal statutory constraints.*
- (5) Any national policy should coordinate program activities of all federal agencies with ground water responsibilities.*
- (6) The role of the federal government should be limited to federal/state cooperative programs and to providing technical assistance in (a) assessing the extent of ground water contamination problems, (b) data gathering and data management, (c) maintaining a strong and productive research program, and (d) facilitating information exchange.*

RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL.  
CONCERNING  
EPA'S NATIONAL MUNICIPAL POLICY  
McAllen, Texas  
January 14, 1983

*WHEREAS, the current Administration recognizes the states' role in water pollution control and advocates greater state assumption of federal responsibilities; and*

*WHEREAS, EPA is assuming that the sewage treatment works construction grant appropriations will terminate in FY85; and*

*WHEREAS, EPA estimates that there will be 6,000 to 8,000 unfunded treatment facilities after the fiscal year 1985 grant obligation; and*

*WHEREAS, EPA is proposing a National Municipal Policy which indicates that all municipalities must meet the statutory requirements as soon as possible but no later than July 1, 1988 wherever practicable, regardless of the availability of federal grant funds; and*

*WHEREAS, many municipalities will be financially hard-pressed to meet their waste water effluent limits; and*

*WHEREAS, the states need to set compliance dates on a case-by-case basis because of the differences in finances and needs.*

*NOW THEREFORE BE IT RESOLVED, that the Western States Water Council recommends that (1) the National Municipal Policy Statement be kept as general as possible consistent with the provisions of the 1981 Amendments to the Clean Water Act, (2) EPA work with individual states in affording each state an opportunity to develop a more specific strategy for that state based upon the financial setting and facility needs of that state, and (3) EPA allow each individual state full opportunity to work with each individual municipality to define acceptable compliance schedules and funding support on a case-by-case basis.*

POSITION  
of the  
WESTERN STATES WATER COUNCIL.  
concerning  
FEDERAL ENERGY REGULATORY COMMISSION LICENSING  
and  
STATE WATER RIGHTS  
April 22, 1983

**I. BACKGROUND**

*Federal law, specifically the Federal Power Act, requires the Federal Energy Regulatory Commission (FERC) to license any hydroelectric plant which: (1) is located on federal land; or (2) uses water impounded by a federal dam; or (3) is located in or uses water from a navigable stream or (4) produces power which affects interstate commerce. The terms "navigability" and "interstate commerce" have been broadly interpreted such that the vast majority of hydroelectric developments require compliance with FERC licensing or exemption procedures.*

Because hydropower is generated by the flow of water, the right to use the water for the purpose of generating power must be obtained. This means that, in the western United States, where the doctrine of prior appropriation governs water rights, a hydro developer must obtain an appropriative water right

Under the appropriation doctrine water is declared the property of the state or public. The essence of the creation of an appropriative water right is application of the water to a legislatively defined beneficial use. The right, allowing continued beneficial use, is then protected against subsequent appropriations. Application of this principle promotes stability of existing economies predicated upon water use and insures maximum beneficial use as defined by the public.

Congress and the Supreme Court have approved the implementation of the appropriation doctrine by the western states. Through congressional action, western land was "severed" from western water and traditional (prior appropriative) western methods of allocating and administering water rights were approved. Although the United States Supreme Court has noted recently that congressional deference to state water law has not amounted to total relinquishment of federal authority, more often than not, Congress has included a statement of specific deference to state law in significant congressional acts affecting water resources.

Such is the case with the Federal Power Act. Section 9 of the Act requires applicants to provide evidence of compliance with state water law. Section 27 states that nothing in the Act is to affect state law relating to the control, appropriation or distribution of water. However, these provisions were interpreted narrowly by the Supreme Court in First Iowa Hydro-Electric Cooperative v. Federal Power Commission, 328 U.S. 152 (1946). In that case the Court held that FERC's predecessor, the Federal Power Commission, could license a project even though the licensee was in violation of Iowa laws requiring a state permit to build a dam and prohibiting the dewatering of a river. The Court interpreted Section 27 as referring primarily to proprietary rights created under state law. Section 27 was later construed in Federal Power Commission v. Niagara Mohawk Power Corp., 347 U.S. 239 (1954) as assuring just compensation to holders of state created water rights if those rights were taken as an incident to the exercise of a FPC (FERC) license.

Cases following First Iowa have approved construction of FPC or FERC licensed projects regardless of conflict with state laws. These cases, however, have dealt primarily with permitting procedures other than those used to create appropriative water rights. See City of Tacoma v. Taxpayers of Tacoma, 357 U.S. 320 (1958); state statutes prohibiting dams interfering with navigation and prohibiting cities from condemning state property: Federal Power Commission v. State of Oregon, 349 U.S. 435 (1955); state statute requiring a dam permit from the state fish commission: State of Washington Department of Fish and Game v. Federal Power Commission, 207 F2d 391 (9th Cir. 1953); state statutes pertaining to fishery protection. Also, it should be noted, First Iowa was not really a "water rights" case, because the applicant had acquired 98% of the riparian water rights necessary to develop the project.

In a recent case, Town of Smithfield, Vermont v. State of Vermont Environmental Board, 521 F. Supp. 243 (D. Vt. 1981), Vermont statutes requiring a land use permit for highway relocation and recreational development were found not controlling in the face of FERC licensing approval. But, the Court was careful to state that the case did not involve "control, appropriation, use or distribution of water," thereby distinguishing it from California v. United States, 438 U.S. 645 (1978). In that case the Supreme Court interpreted Section 8 of the Reclamation Act of 1902, which is nearly identical to Section 27 of the Federal Power Act, to mean that a state may impose any condition on the control, appropriation, use or distribution of water in a federal reclamation project that is not inconsistent with "clear congressional directives." The Court specifically disavowed language to the contrary in earlier opinions. Thus, new life was given the same words the First Iowa Court had restrictively construed. Although, ultimately, the California holding may or may not have direct application to construction of the Federal Power Act, at least one federal court has felt the need to distinguish it from a Federal Power Act case. While before California, it may have appeared settled that FERC licensing decisions would take precedence regardless of state appropriative water laws, the issue is now unclear.

Development of hydropower projects began early in this century. However, in the last few years, there has been a tremendous increase in hydro development. Reasons for this increase include: (1) the "energy crisis;" (2) a section in the 1978 National Energy Act which, in effect, forces electric utilities to buy electricity at what amounts to a "premium price" from any small supplier with power to sell and (3) a section of the 1980 Crude Oil Windfall Profit Tax Act which created an investment tax credit for small hydro development. These incentives have caused the number of preliminary applications filed with FERC to increase from 36 in 1978 to approximately 600 in 1980 to approximately 1800 in 1981. The average number of filings per year before 1978 was approximately 4. The dramatic increase has led some experts to note that many claims are being filed solely to tie up hydro sites for speculation and claim jumping purposes. Regardless of the motive, the increase in filings has illuminated a number of concerns. These concerns relate to the overlapping nature of the authority of FERC to license hydro plants, and that of state water administrators, to grant the water rights necessary to turn turbines in those plants. The following will describe these concerns in detail.

## II. STATE CONCERNS

### A. Water Rights and Order of Application

Although FERC requires various exhibits to be filed with preliminary permit applications, it requires no proof of an applicant's ability to obtain a right for the water necessary for the proposed development. Other factors relating to the development being equal, the first potential developer to obtain a preliminary permit will be awarded the FERC license. Thus a FERC applicant can obtain FERC approval and encouragement to pursue development of a hydro site, without any possibility that it can obtain a right under state law to use the water essential for the development.

*The following situation demonstrates this problem. American Falls Reservoir District No.2 and the Bigwood Canal Company own and operate the Milner-Gooding Canal in Lincoln County, Idaho. Located on the canal is the Dietrich drop-site. American Falls and Bigwood intended to develop a hydro project at the site and obtained a hydropower water right from the state of Idaho with a priority date of September 15, 1980. On May 25, 1982, FERC granted a preliminary permit to develop the site to Idaho Renewable Resources, Inc. and the City of Ashton, Idaho. In its license order FERC concluded that there were not significant substantiated differences in the plans for development presented by the parties. Idaho law provides that, with regard to man-made irrigation facilities, water cannot be appropriated for hydropower development without the permission of the owner of the facilities*

*The FERC order issuing the preliminary permit to Idaho Renewable Resources, Inc. and City of Ashton, Idaho results in one party having the FERC approval to develop the site while another party, which was in competition with the first for the FERC license, is the only entity which can obtain the necessary water right under state law. Idaho regards the FERC action as being in blatant disregard of state water law.*

*This concern is not limited to the state of Idaho. The state of Montana estimates that proposed development of approximately 75 projects in Montana are at various stages of the FERC review procedure, while very few of the developers have applied for state water use permits. In Washington over 500 new hydroelectric projects are under some stage of consideration with very little consultation with the state water resource management agencies regarding existing water rights, instream flows, water availability or state water policies for streams proposed for development. The experience of the state has been that water rights, if applied for at all, are generally only sought after the applicant has received a FERC license or exemption. The state of Colorado has experienced similar problems, as has the state of Utah.*

*After experiencing many of the same difficulties, the state of Oregon sent correspondence to Kenneth Plumb, FERC Secretary, requesting that FERC advise Oregon hydropower applicants that they contact the Oregon Water Resources Department concerning state water right requirements for hydroelectric projects. The state reports that receipt of the letter was never acknowledged and that, to its knowledge, FERC has never advised any applicants of the state requirements.*

#### *B. Imposition of Minimum Instream Flow*

*Under the provisions of the Fish and Wildlife Coordination Act, FERC consults fish, wildlife and parks agencies when considering issuance of a federal license or exemption for the development of a hydropower project. The western states report that in many instances this consultation leads to the imposition of minimum instream flows below a hydro development site, usually in disregard of state law. A case from the state of Montana illustrates the problem.*

*After consultation with pertinent agencies, FERC awarded a hydropower exemption for development of the proposed Vermillion Creek hydropower diversion project in western Montana. The project would divert water through a penstock for several miles to a lower point of return on the creek. The exemption*

awarded by FERC stipulated that the project could be constructed and operated only if 75 cfs were maintained below the point of diversion. Montana submits that FERC has allocated the 75 cfs minimum instream flow without prior consideration of Montana's water management responsibilities set forth under state law.

Under Montana water law, the reservation process provides the only means for the legal establishment of instream flow rights. The right to maintain these instream flows can be obtained only by a governmental entity. Without their legal protection, Montana must continue to allocate water for consumptive use in the reach stipulated by FERC for maintenance of instream flows. No water right has been sought for the Vermillion Creek project. Regardless of whether further allocations occur on the Creek, Montana questions who is responsible for assuring maintenance of the 75 cfs flow required by FERC. The state has little motivation to enforce the minimum flow since there has been no compliance with state law nor mutually agreeable policy for protection of the flows. It is questionable whether FERC is in a position to act as an enforcing entity.

The state of Idaho has also experienced difficulty with FERC's establishment of minimum flows. Idaho, like Montana, is not adverse to the concept of minimum flows for fish and other uses, and has specific statutory procedures by which such flows can be established. However, Idaho has met with little success when it has attempted to describe to FERC the provisions of Idaho law relating to instream flows, and the problems created by FERC's lack of compliance with those provisions. The state has received no acknowledgement of its written communications, no acknowledgement of the problem and no cooperation in seeking a resolution.

The state of Texas has had similar problems with the establishment of minimum instream flows by FERC. As part of its requirements for the 50-year renewal of the FERC (FPC) license of the Possum Kingdom Dam on the Brazos River in Texas, FERC disregarded state law and the wishes of state citizens and attempted to establish minimum instream flows below the dam. Although it now appears that the problem has been satisfactorily resolved, the resolution was reached only after expenditures of a tremendous amount of time and money by the state and its citizens.

The state of Washington, with vast hydro development, has experienced different problems relating to instream flows. According to its experience, FERC does not consider nonfishery instream uses, such as aesthetics, recreation, navigation, and water quality, in determining instream flow reservations. These aspects must be considered by the Washington Department of Ecology under state law. Yet the state water resource agency's recommendations, based upon its legally mandated, multifaceted considerations, are not respected by FERC. This may result in the establishment of two minimum flow requirements; one by the state of Washington and the other in the exemption or license issued by FERC. In addition to the inherent conflict of the "competing" requirements are questions of enforcement of the minimum flow requirements.

### *C. Foreclosure of Upstream Uses*

Another concern related to the imposition of minimum instream flow occurs where applicants have acquired a state water right permit for a hydro site

after receiving necessary FERC approval. Since many state statutory schemes require that, when water is available, a requested provisional permit must be issued to an applicant, a hydro developer could call for the entire unappropriated flow in a water course. This would effectively preclude future agricultural, municipal and other consumptive uses above a hydropower project. Where FERC licensing decisions are made without consulting state water use plans, considerable conflicts can occur. The Noxon Rapids Hydroelectric project in western Montana is a prime example of this problem. It has virtually closed to future diversionary use the entire Clark Fork of the Columbia River above the dam.

#### D. Lack of Cooperation

Although it has been alluded to, it should be mentioned here that many of the states report that, in attempting to resolve problem situations, they have experienced a tremendous lack of cooperation by FERC. This concern relates not to arguments over what should or should not be done to resolve a given dispute, but rather to what the states perceive to be FERC's refusal to acknowledge that disputes exist. Oregon notes that its primary criticisms of FERC involve not only FERC's disregard for state water law and policy but, "a lack of cooperation with our department, (and) a failure to respond to our (written) inquiries and requests. . ."

Washington also reports FERC's failure to consult with the state water resources management agency regarding basic concepts which are inherent in licensing procedures. Idaho has similar concerns. Idaho reports that written communications to FERC describing problems have not been acknowledged or answered.

Individual states have experienced problems in addition to those explained above. No attempt will be made to detail these. It should be understood, however, that the concerns which have been emphasized are illustrative of state problems; the information is not exhaustive.

### III. WESTERN STATES WATER COUNCIL ACTION

In January, 1982, the Western States water Council wrote to FERC Commissioner Georgianna Sheldon requesting that FERC regulations be amended to require that all applicants for preliminary permits and licenses for hydropower development present evidence of: (1) having filed for necessary water rights pursuant to state law, or (2) the ability to acquire the necessary water rights pursuant to state law of eminent domain or related law. Commissioner Sheldon responded by defending the current FERC regulatory scheme.

In April, 1982, the Council voted to support legislative amendments to the Federal Power Act designed to insure the FERC will not license hydropower projects unless the applicant has obtained or can demonstrate the ability to obtain necessary water rights under state law. The proposed amendments would also prohibit FERC from authorizing hydro licensees to acquire water rights by use of the federal power of eminent domain, while permitting the use of state eminent domain law by an applicant otherwise authorized. In addition, the amendments would explicitly disclaim any intent to confer water rights on the



United States in the course of implementing the Federal Power Act and would prohibit FERC from imposing terms and conditions in licenses which are inconsistent with state law.

The proposed amendments to the Federal Power Act would alleviate most of the state concerns described above. There would be no issuance of FERC permits, licenses or exemptions unless the permittee could prove the ability to acquire necessary state water rights. Instream flow appropriations would also have to be made in accordance with state law and pursuant to state water planning decisions.

#### IV. CONCLUSION

The western states submit that their many years of experience in balancing competing interest in the use of water make them best qualified to continue to have primary legal responsibility to allocate water rights. FERC is in no position to assume this responsibility. Yet FERC, in its licensing procedures, seems intent on disregarding state water law. Requiring compliance with state water right laws would not only protect the western state systems of water law, but would assist FERC by assuring that the applicants before it are serious enough about developing a hydro site to have complied with state water right laws and procedures.

Given the tremendous increase in FERC filings during the last two or three years, and the "lagtime" in the FERC licensing procedure, only the "tip of the iceberg" has surfaced with regard to potential conflicts between FERC and the water administrators of the prior appropriation states. The concerns listed above will not vanish. Some sort of resolution will occur. Prudence dictates a resolution which allows all parties to carry out their traditional and legally mandated responsibilities.

In this regard, language from the most recent decision in United States v. California, is instructive. The Supreme Court remanded the case to the district court for determination of which of the conditions placed on the federal project by the State of California could be upheld. The district court decision was appealed to the Ninth Circuit which, in upholding all of the California conditions, stated:

There is a preference, in interstate water cases, for "negotiation," "mutual accommodation and agreement," rather than litigation [citations omitted]. A similar preference applied in cases where we are asked to arbitrate complicated and delicate questions of federalism.

In legal terms, these principles require the United States, at a minimum, to attempt to reconcile its interests with California law before a court can override the state's position as conflicting with federal policy. The precepts of federalism, if followed, should produce mutual respect and accommodation for state interests . . . The United States may not justify its demands simply as a raw exercise of superior authority. United States v. California, Nos. 81-4189x and 81-4309x (9th Cir. 1982) Slip Opinion at 11.

*The experience of the western states has been that, with regard to the relationship between federal hydropower licensing and state law governing water resources, only a change in direction from past policies and procedures will produce "mutual respect and accommodation for state interests." For this reason, the Council offers its proposed Federal Power Act amendments. (See 1982 Annual Report, pages 9 and 10 for proposed Federal Power Act amendments.)*

POSITION  
of the  
WESTERN STATES WATER COUNCIL  
regarding  
FEDERAL WATER PROJECT COST SHARING  
(Financing and Repayment)  
April 22, 1983

### INTRODUCTION

*The development and management of our Nation's water resources contribute significantly to our social, economic and environmental well being. Investments in water resource development projects and programs have produced diverse and widespread benefits. These benefits include increased employment, national and regional economic development, adequate and safe drinking water supplies, increased agricultural productivity, facilitating important energy development, providing clean and renewable hydropower, transportation diversification, soil and water conservation, flood control, water quality improvement, fish and wildlife enhancement, and recreational opportunities.*

*Annually, government and private entities spend billions of dollars on the capital cost of water resource development. Non-federal interests already finance the greatest share of these expenditures (approximately 74%). The only comprehensive study of historic expenditures estimated a total national capital outlay through about 1970 of \$338 billion. The estimated state and local financing share was 57%, with the federal government financing 26% and private entities 17% (National Water Commission).*

*Non-federal entities finance the largest share of water resources development, and incur substantial repayment obligations for federally financed projects. For example, non-federal sponsors of federal municipal, industrial, and hydropower development projects are required to repay 100% of the capital and operation and maintenance (O&M) costs allocable to those purposes. Capital and O&M costs associated with irrigation development are being repaid largely without interest.*

### DISCUSSION

*There are certain circumstances in which the federal government has been the most logical source of financing for water resources development. These include situations in which a project, or a series of related projects, creates widespread benefits distributed among several states, provides a good or service available to the public-at-large, meets constitutional or statutory obligations of the national government, serves national purposes in addition to the direct benefits generated, or contributes to the equitable sharing of development*

opportunities among states within a single river basin. Finally, it has been prudent for the federal government to finance the development of project purposes ancillary to the central federal purpose involved (i.e., multi-purpose project development) in order to maximize the utilization of the Nation's water resources.

These continue to be valid reasons for the federal financing of water resources development. Moreover, the need for projects which fall within these circumstances will grow in the years ahead in the face of continued population growth, energy development, Indian water development issues, sustenance of the Nation's agricultural base, and the maintenance and replacement of existing federal projects. Historical federal commitments to multi-state river basin development plans must also be honored and completed in a timely and equitable manner.

In the face of these growing needs, federal budgetary constraints and inflation have prevented federal investments from keeping pace with funding requirements for construction of on-going and new projects. The result has been a decline in the real dollars available for water resource development, a slowed pace of construction on projects underway, and no new starts for several years.

In the face of these problems, some have suggested that new requirements for non-federal financing should be imposed as a condition of obtaining further federal funding for water resources development. The Western States Water Council has serious and substantial reservations about the practicability and fairness of such proposals. On the other hand, the present hiatus over new federal project starts must be resolved.

The issue of non-federal financing of projects heretofore funded by Congress merits careful consideration. The States, the Congress, the Administration, and other interested parties should all be involved in determining whether there is a necessity for new non-federal financing requirements. The WSWC believes that such determinations should be founded upon certain basic principles, as outlined below.

#### PRINCIPLES

1. Any new policy should be reasonably consistent across federal agency programs and projects with similar purposes.
2. Any new financing mechanisms or requirements must take into account the financial resources and institutional arrangements available to non-federal entities.
3. New policies should not apply to currently authorized projects.
4. Any policy changes must recognize and fairly consider past federal commitments.
5. Federal water project funding must be timely and consistent over time in order to insure that adequate funding will be available to facilitate prompt initiation and completion of construction.
6. Consideration of increases in non-federal financing should be limited to project purposes which produce vendible private goods and that have identifiable beneficiaries.

7. *Project revenues must be returned to non-federal interests in proportion to the financing which such interests provide for the project purpose generating the revenue.*
8. *The Administration and Congress should encourage non-federal capital formation by providing incentives such as removing restrictions on the use of tax exempt municipal bonds, and establishment of a federal bond guarantee or insurance fund.*

**RESOLUTION**  
*of the*  
**WESTERN STATES WATER COUNCIL**  
*concerning*  
**CLEAN WATER ACT FUNDING UNDER SECTION 106(a).**  
*April 22, 1983*

*WHEREAS, the Administration has recommended that Congress severely cut authorized funding and appropriation under Section 106(a) of the Clean Water Act, which provided program grants to states and interstate agencies for water pollution control; and*

*WHEREAS, state water pollution control program administration is substantially dependent on Section 106(a) grants; and*

*WHEREAS, environment protection involves a state/federal partnership, but it appears to be the policy of the Administration to unilaterally reduce its financial participation; and*

*WHEREAS, the National Governors Association has supported maintaining federal grants for state environmental programs at least at fiscal 1982 levels; and*

*WHEREAS, the authorized level of funding for FY82 was \$75 million and the actual appropriation was \$51.2 million.*

*NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council urges the Congress to authorize and appropriate Section 106(a) funds to provide that such funding is not reduced from the FY82 appropriation level.*

POSITION  
of the  
WESTERN STATES WATER COUNCIL  
regarding  
RECLAMATION SAFETY OF DAMS ACT OF 1978  
April 22, 1983

*WHEREAS, the Bureau of Reclamation has identified numerous of its dams which do not meet modern safety requirements; and*

*WHEREAS, the Bureau estimates that necessary dam safety work in twelve western states could cost \$650 million; and*

*WHEREAS, future safety work will be necessary on numerous other dams; and*

*WHEREAS, legislation has been introduced to amend the Reclamation Safety of Dams Act of 1978 to authorize the federal expenditure of an additional \$550 million to modify or replace such unsafe dams.*

*NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports prompt consideration and passage of S. 672, introduced by Senator James McClure (R-ID) to authorize additional appropriations under the Act to modify or replace unsafe Bureau dams at full federal expense.*

RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL  
concerning  
STATE WATER RIGHT FILINGS BY FEDERAL AGENCIES  
April 22, 1983

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

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

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

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

**EXECUTIVE ORDER**

*The President issue an executive order directing all federal agencies and employees at the request of a state to:*

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

*APPROVED ADDITION*  
*to the*  
*RULES OF ORGANIZATION*  
*of the*  
*WESTERN STATES WATER COUNCIL*  
*April 22, 1983*

*It is proposed that a subparagraph (4) be added to "Article V-Membership" of the Rules of Organization of the Western States Water Council as follows:*

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

*POSITION*  
*of the*  
*WESTERN STATES WATER COUNCIL*  
*regarding*  
*EPA'S PROPOSED REVISIONS OF*

*WATER QUALITY STANDARDS REGULATIONS*

*Kalispell, Montana*  
*July 29, 1983*

*WHEREAS, Congress envisioned joint state/federal management of the nation's water quality protection program under the Clean Water Act; and*

*WHEREAS, water quality standards were intended by Congress to focus the allocation of scarce resources on priority problems; and*

*WHEREAS, the states have established ambient water quality standards for all "navigable" waters; and*

*WHEREAS, the states have demonstrated their commitment to water quality protection and have the integrity, expertise and sophistication to ensure continued progress; and*

*WHEREAS, for years the states have asserted the need for greater flexibility in administering water quality standards under the Act; and*

*WHEREAS, EPA has proposed changes which are generally responsive to the states recommendations; and*

*WHEREAS, these proposed changes are currently under review by the Administration.*

*NOW THEREFORE, BE IT RESOLVED, that the Western States Water Council supports the need for changes to provide a flexible, workable framework to facilitate a more realistic national water quality protection program.*

*BE IT FURTHER RESOLVED, that the Western States Water Council urges EPA to include in any further revision of the federal water quality standards regulations the following principles:*

- 1. States (and interstate agencies) have the primary role in establishing water quality standards.*
- 2. State adopted standards should be presumed protective of water quality -the burden of proof for disapproval should be on EPA.*
- 3. EPA must assure interstate compatibility and compliance with the Act.*
- 4. EPA has a vital role in providing technical information and coordination of federal interests.*

*RESOLUTION*  
*of the*  
**WESTERN STATES WATER COUNCIL**  
*regarding*  
**NON-POINT SOURCE AMENDMENTS OF THE**  
**FEDERAL CLEAN WATER ACT**  
*Kalispell, Montana*  
*July 29, 1983*

*WHEREAS, non-point source (NPS) pollution significantly impacts water quality in Western States and includes both natural and man-induced contributions; and*

*WHEREAS, the types of non-point sources that need to be controlled and the means for effectively implementing those controls vary significantly from state to state; and*

*WHEREAS, the Western States have demonstrated substantial progress in controlling non-point sources based upon existing authorities and programs; and*

*WHEREAS, the Western States have demonstrated the ability to successfully resolve interstate issues among themselves to the benefit of the national water quality programs; and*

*WHEREAS, sufficient federal legislative requirements, regulations, and administrative oversight currently exist to manage an effective NPS program.*

*NOW THEREFORE, BE IT RESOLVED, that the Western States Water Council supports continued state leadership in controlling NPS of pollution on a flexible basis consistent with the needs of the individual states. Before any new federal authority or programs are mandated, existing programs should first be examined for adequacy particularly from the funding standpoint to see if adjustments of these can better address the issue. Mandatory federal control of NPS of pollution as currently being proposed in Congress, with compliance deadlines and far reaching cross-compliance implications, is unwarranted and would be counter-productive to accomplishing the goals of the Clean Water Act. Furthermore, any mandated EPA intervention in the efforts of the Western States to address their NPS problems would be highly disruptive of such efforts and an abridgement of state primacy.*



## BUDGET AND FINANCE

At the quarterly meeting held April 22, 1983 in Eugene, Oregon, the Executive Committee adopted a budget for FY 1984 of \$252,500. The schedule also called for yearly assessments of \$19,500 per state for FY 1984. To accommodate states on a biennial budget, a motion was made to set the assessment for FY 1984-85 at the same amount (\$19,500 each state). The motion was seconded and passed unanimously.

The budget is considerably less than the one set for the previous year, and is equal to the proposed income. The Management Committee requested that the monies collected for the newsletter be shown separately on the balance sheet. Up to this point, these receipts were put into the fund that paid for copying, postage, etc. The Management Committee also approved an action to adjust staff benefits to be consistent with the State of Utah with regard to health insurance and dental insurance; also to allow merit and cost of living raises consistent with the State of Utah.

The audit for the fiscal years 1982-83 was prepared by the firm of Hansen, Barnett and Maxwell and was presented to the Council by the Executive Director at the annual meeting in July at Kalispell, Montana. The Auditor's Report was accepted unanimously as written. The accounting policies of the Western States Water Council conform to generally accepted accounting principles as applicable to governmental units. The Council utilizes the modified accrual basis of accounting. The Auditor's Report and the 82-83 financial statement are reflected on the following pages.

**HANSEN, BARNETT & MAXWELL**

A PROFESSIONAL CORPORATION

CERTIFIED PUBLIC ACCOUNTANTS

345 EAST BROADWAY  
SALT LAKE CITY, UTAH  
84111

July 7, 1983

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

We have examined the general fund balance sheets and statements of general fixed assets of the Western States Water Council as of June 30, 1983 and 1982 and the related statement of changes in fixed assets for the years then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Western States Water Council at June 30, 1983 and 1982 and the results of its operations for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

*Hansen, Barnett & Maxwell*

**WESTERN STATES WATER COUNCIL**

**General Fund**

**Statement of Revenues and Expenditures and Fund Balance**

**For the Years Ended June 30, 1983 and 1982**

	<u>Budget</u>	<u>Actual</u>	<u>Actual Over (Under) Budget</u>	<u>Actual Prior Year</u>
<b>REVENUES</b>				
Member States' assessments .....	\$234,000	\$235,000	\$ 1,000	\$222,000
Other miscellaneous income .....	1,315	6,845	5,500	-
Interest income .....	-	15,125	15,125	24,816
<b>TOTAL REVENUES</b> .....	<u>235,315</u>	<u>256,970</u>	<u>21,625</u>	<u>246,816</u>
<b>EXPENDITURES</b>				
Salaries .....	164,630	157,093	(7,537)	146,122
Travel .....	33,000	22,068	(10,932)	35,455
Contract services .....	500	-	(500)	131
Payroll taxes and employee benefits .....	39,475	35,178	(4,297)	26,370
Printing and reproduction .....	16,350	17,723	1,373	16,005
Rent .....	18,340	17,042	(1,298)	16,152
Freight and postage .....	6,500	5,523	(977)	5,707
Telephone .....	6,500	6,312	(188)	6,977
Furniture and equipment .....	1,000	-	(1,000)	1,639
Office supplies .....	4,500	4,017	(483)	4,427
Reports and publications .....	2,700	2,280	(420)	2,886
Meetings and arrangements .....	1,500	1,453	(47)	1,070
Accounting .....	1,300	1,250	(50)	1,250
Insurance .....	750	631	(119)	906
Contingencies .....	2,000	2,083	(83)	2,993
<b>TOTAL EXPENDITURES</b> ....	<u>299,045</u>	<u>272,653</u>	<u>(26,392)</u>	<u>268,093</u>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES</b> .....				
	(63,700)	(15,683)	48,017	(21,277)
<b>FUND BALANCE - BEGINNING OF YEAR</b> .....				
	<u>110,600</u>	<u>110,600</u>	-	<u>131,877</u>
<b>FUND BALANCE - END OF YEAR</b> .....				
	<u>\$ 46,900</u>	<u>\$ 94,917</u>	<u>\$ 48,017</u>	<u>\$110,600</u>

The committee charters, committee membership and subcommittee assignments follow:

### **EXECUTIVE COMMITTEE CHARTER**

This charter of the Executive Committee of the Western States Water Council was adopted by resolution on January 29, 1970, at the meeting of the Council in Seattle, Washington and amended on July 26, 1979 at the meeting in Sitka, Alaska, and on October 16, 1981 at the meeting in Jackson, Wyoming. It is the administrative and steering committee of the Council on matters outlined in this Charter and such other matters as may be related thereto.

#### **Objective**

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

#### **Authority**

The authority of the Executive Committee derives from the Council itself and includes the following powers: (1) To act upon internal and administrative matters between meetings of the Council; (2) To call special meetings of the Council on external matters when prompt action by the Council before the next regular meeting is deemed necessary by a majority of Executive committee members; (3) To create working groups and ad hoc groups; (4) To make assignments to committees; (5) To receive committee reports; and (6) To implement actions and programs approved by the Council.

#### **Program**

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

#### **Organization and Voting**

The Executive Committee of the Western States Water Council consists of one

representative from each member state in accordance with Article IX - Executive Committee - of the "Rules of Organization." The Chairman and Vice Chairman of the Council shall serve as officers of the Executive Committee but do not necessarily have to be voting members of the Executive Committee. The Council staff furnishes necessary assistance as desired and requested by the Executive Committee.

Each member of the Executive Committee shall have one vote in conducting business. A quorum shall consist of a majority of members. A majority of those voting shall prevail on internal matters. If an external matter comes before the Executive Committee between Council meetings, and the Executive Committee finds an emergency exists, it may take final action by unanimous vote of all members. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

### **Meetings**

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

### **Reporting**

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

## **EXECUTIVE COMMITTEE MEMBERS**

Wesley E. Steiner - Arizona  
David Kennedy - California  
David H. Getches - Colorado  
A. Kenneth Dunn - Idaho  
John E. Acord - Montana  
Roland D. Westergard - Nevada

S.F. Reynolds - New Mexico  
William H. Young - Oregon  
John T. Montford - Texas  
Thorpe A. Waddingham - Utah  
Donald W. Moos - Washington  
George Christopoulos - Wyoming

### **Management Subcommittee**

Chairman  
Vice-Chairman  
Secretary-Treasurer  
Past Chairman  
Executive Director

## **SPECIAL SUBCOMMITTEES**

### **Management Subcommittee**

John Spencer - Washington - Chairman	
Jack Acord - Montana	Roland Westergard-Nevada
Vice Chairman	Secretary / Treasurer
Ray Rigby - Idaho	D. Craig Bell
Past Chairman	Executive Director

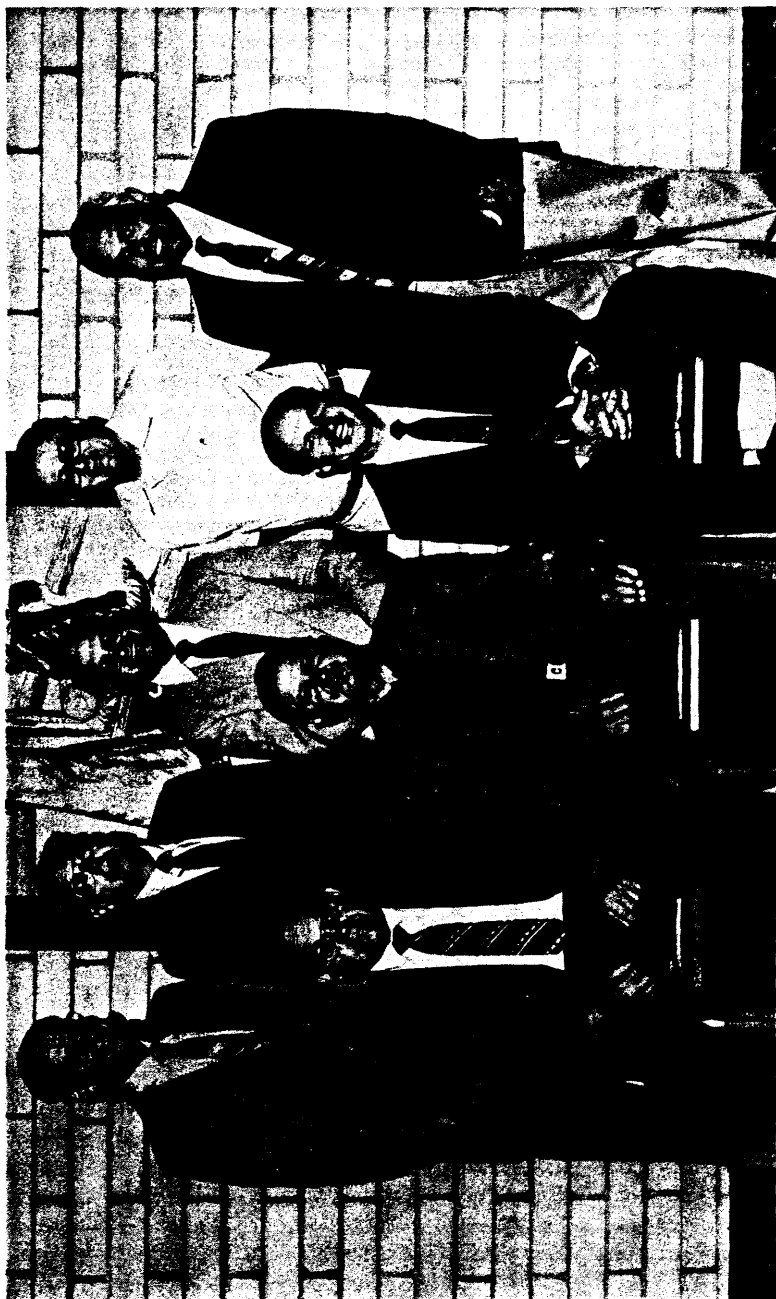
### **Special Subcommittee on Water Project Financing**

John Spencer - Washington - Chairman	
Wesley E. Steiner - Arizona	A. Kenneth Dunn - Idaho
John Fraser - California	Charlie Nemir - Texas
J. William McDonald - Colorado	

### **Joint Ground Water Subcommittee**

Charles B. Roe, Jr. - Washington - Chairman	
Wesley E. Steiner - Arizona	Charlie Nemir - Texas
Gary Broetzman - Colorado	George Proctor - Oregon
Don Willems - Montana	

## EXECUTIVE COMMITTEE MEMBERS



Back Row: Jack Acord, Vice-Chairman, George Proctor, George Christopoulos, Wes Steiner and Ken Dunn.  
Front Row: Dan Lawrence, Ray Rigby, Past Chairman, and John Spencer, Chairman.

## **LEGAL COMMITTEE CHARTER**

### **Objective**

The Committee shall assist in initiating, establishing and carrying out the objectives of the Council by providing guidance on the social, ethical, legal and political aspects of the programs relating to water resource and water quality.

### **Program**

To review and develop recommended Council positions on current legislation, laws, administrative rules and activities relating to water resources, water rights, related land use and Indian issues and to examine and keep the Council current on all ongoing pertinent court cases.

### **Organization and Voting**

Committee membership is by appointment by the states of the Council. One member shall be from each state, but need not be one of the state's delegates to the Council. Any Legal Committee member may designate an alternate to serve in his absence. A quorum shall consist of a majority of members. A majority of those members present and voting is required for Committee action. Each state shall have one vote. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

A Committee chairman shall be appointed by the Chairman of the Council from the Committee membership and serve at his pleasure. The Committee chairman will appoint a vice chairman and subcommittees as needed. The staff of the Council shall furnish such assistance to the Committee as is requested. A member of the staff will serve as secretary.

### **Meetings**

The Committee shall meet at the call of the Committee chairman.

### **Reports**

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

### **Charter Adoption**

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



## LEGAL COMMITTEE MEMBERS



Back Row: Bob Lundquist, Tom Choules, Bill Paddock, Larry Wolfe,  
Front Row: Ray Rigby, George Proctor, Harry Pugsley, Willard Rhoads.

## **LEGAL COMMITTEE MEMBERS**

George Proctor - Oregon - Chairman  
Charles B. Roe, Jr. Washington - Vice-Chairman

Stan Turley - Arizona  
Dave Kennedy - California  
David H. Getches - Colorado  
Ray Rigby - Idaho  
Leo Berry, Jr. - Montana  
Roland Westergard - Nevada

Richard Simms - New Mexico  
George Proctor - Oregon  
John T. Montford - Texas  
Harry D. Pugsley - Utah  
Charles B. Roe, Jr. Washington  
Willard Rhoads - Wyoming

### **Reserved Rights Subcommittee**

Charles B. Roe, Jr. - Washington - Chairman  
Richard Simms - New Mexico  
Lawrence Wolfe - Wyoming  
Roland D. Westergard - Nevada

### **FERC Licensing Subcommittee**

George Proctor - Oregon  
Lawrence Wolfe - Wyoming

Charles B. Roe, Jr. Washington

## **WATER QUALITY COMMITTEE CHARTER**

### **Objective**

The Committee shall assist in initiating, establishing and carrying out objectives of the Council by providing guidance on the water quality and environmental aspects of all programs of interest to the Council.

### **Program**

To review and develop recommended Council positions on water quality and environmental standards and problems relating to the water resources of the Western United States.

### **Organization and Voting**

Committee membership is by appointment by the states of the Council. One member shall be from each state, but need not be one of the State's delegates to the Council. Any Water Quality Committee member may designate an alternate to serve in his absence. A quorum shall consist of a majority of members. A majority of those members present and voting is required for committee action. Each state shall have one vote. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

A Committee chairman shall be appointed by the Chairman of the Council from the Committee membership and serve at his pleasure. The Committee chairman will appoint a vice chairman and subcommittee as needed. The staff of the Council shall furnish such assistance to the Committee as is requested. A member of the staff will serve as secretary.

### **Meetings**

The Committee shall meet at the call of the Committee chairman.

### **Reports**

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

### **Charter Adoption**

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

## WATER QUALITY COMMITTEE MEMBERS

Calvin Sudweeks - Utah - Chairman

Donald G. Willems - Montana - Vice-Chairman

Sidney Woods - Arizona  
- California

Gary Broetzman - Colorado

Gene Gray - Idaho

Joseph E. Dini, Jr. - Nevada

Odis Echols - New Mexico

Kip Lombard - Oregon

Fred Pfeiffer - Texas

John Spencer - Washington

George Christopoulos - Wyoming



Back Row: Kip Lombard, Gene Gray, Charlie Nemir, Gary Broetzman.

Front Row: Don Willems, Cal Sudweeks and George Christopoulos.

# WATER RESOURCES COMMITTEE CHARTER

## Objective

The Committee shall assist in initiating, establishing and carrying out objectives of the Council by providing guidance on water resource planning, conservation, and developments that are of common interest to the Council.

## Program

To review and develop recommended Council positions on current legislation, regulations, criteria, plans and problems relating to water planning, management and conservation development for all purposes, and utilization.

## Organization and Voting

Committee membership is by appointment by the states of the Council, one member from each state, but not necessarily one of the state's delegates to the Council. Any Water Resource Committee member may designate an alternate to serve in his absence. A quorum shall consist of a majority of members. A majority of those members present and voting is required for Committee action. Each state shall have one vote. Except as otherwise provided herein, meetings shall be conducted under Robert's Rules of Order, Revised.

The Committee chairman shall be appointed by the Chairman of the Council from Committee membership. The Committee chairman will appoint a vice chairman, and subcommittees as needed. The Council staff will furnish necessary assistance as desired and requested by the Committee. A member of the staff will serve as secretary.

## Meetings

The Committee will meet at the call of the Committee chairman.

## Reporting

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

## Charter Adoption

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

## **WATER RESOURCES COMMITTEE**

J. William McDonald - Colorado - Chairman

A. Kenneth Dunn - Idaho - Vice Chairman

Wesley E. Steiner - Arizona  
- California

John E. Acord - Montana

Duane Sudweeks - Nevada

S.E. Reynolds - New Mexico

William H. Young - Oregon

Charles E. Nemit - Texas

Dan Lawrence - Utah

Wilbur G. Hallauer - Washington

Warren White - Wyoming

### **Cost Sharing Subcommittee**

A. Kenneth Dunn - Idaho - Chairman

Wesley E. Steiner - Arizona

J. William McDonald - Colorado

## WATER RESOURCES COMMITTEE MEMBERS



Back Row: Jack Acord, A.L. Black, Wes Steiner.  
Front Row: Ken Dunn and Dan Lawrence.

These Rules of Organization were changed with the addition of subparagraph (4) to "Article V - Membership" at the Eugene, Oregon meeting on April 22, 1983

## **APPENDIX A**

### **RULES OF ORGANIZATION**

#### **APPENDIX A**

#### **RULES OF ORGANIZATION**

##### **Article I - Name**

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

##### **Article II - Purpose**

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

##### **Article III - Principles**

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

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

##### **Article IV - Functions**

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

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

##### **Article V - Membership**

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



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

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

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

#### **Article VII - Officers**

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

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

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

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

(1) Representatives of each state shall designate one of their members to serve on an Executive Committee

which shall have such authority as may be conferred on it by these Rules of Organization, or by action of the Council. Any Executive Committee member may designate an alternate to serve in his absence.

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

### **Article X - Voting**

Each state represented at a meeting of the Council shall have one vote. A quorum shall consist of a majority of the member states. No matter may be brought before the Council for a vote unless advance notice of such matter has been mailed to each member of the Council at least 30 days prior to a regular meeting and 10 days prior to a special meeting at which such matter is to be considered; provided, that matters may be added to the agenda at any meeting by unanimous consent of those states represented at the meeting. In any matter put before the Council for a vote, other than election of officers, any member state may upon request obtain one automatic delay in the voting until the next meeting of the Council. Further delays in voting on such matters may be obtained only by majority vote. No recommendation may be issued or external position taken by the Council except by an affirmative vote of at least two-thirds of all member states; provided that on matters concerning out-of-basin transfers no recommendation may be issued or external position taken by the Council except by a unanimous vote of all member states. On all internal matters; however, action may be taken by a majority vote of all member states.

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

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

### **Article XII - Meetings**

The Council shall hold regular quarterly meetings at times and places to be decided by the Chairman, upon 30 days written notice. Special meetings may be called by a majority vote of the Executive Committee, upon 10 days written notice.

### **Article XIII — Limitations**

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

### **Article XIV - Amendment**

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

# PRINCIPLES - STANDARDS - GUIDELINES

## PREAMBLE

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

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

## 1.0 PRINCIPLES

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

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

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

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

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

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

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

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

1.1.8 Long-range water plans should be expeditiously developed which are flexible enough to permit modifications to meet changing long-term needs and advances in technology, yet specific enough to provide solutions for immediate water supply problems.

1.1.9 Water exportation studies shall include a thorough examination of efficiency of water use and cost-price relationships and a comprehensive economic evaluation that considers all costs and benefits accruing to the area of origin and costs and benefits accruing to the area of import. The economic analysis must include similar studies for alternative sources of supply. Aesthetic values shall be considered in over-all project evaluation.

1.1.10 Close cooperation and free-interchange of ideas and reporting of data on a uniform basis among all affected local, State and Federal interests, shall be sought.

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

1.2 Regional water planning should be designed to avoid interference with existing rights to the use of water. Any taking of land or water rights shall be governed by the law of eminent domain. Interstate compact allocations shall be honored.

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

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

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

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

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

1.3.2 In making determination of possible surplus water, all water-related needs of the States and areas of origin bearing on environmental protection, economic prosperity and social well being shall be recognized.

1.3.3 All water requirements, present or future, for uses within the drainage area of any river basin, shall have priority and right in perpetuity to the use of the waters of that river basin, for all purposes, as against the uses of water delivered by means of such exportation works, unless otherwise provided by treaty, interstate agreement or compact.

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

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

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

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

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

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

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

1.5 The public should be educated concerning the various and many uses of water and the wise and prudent management thereof. Sound water resource and related land management concepts and the needs and issues confronting the region and the nation should be disseminated. All means and possibilities of financing, development of, and implementing an education program should be explored.

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

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

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

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

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

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

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

3.1 Interstate Exchange of Information and Data.

3.1.1 When a state publishes reports or takes any action which may affect the plans or objectives of other States, the affected States and the Western States Water Council staff should be furnished copies thereof.

Request for basic data and supporting information should be initiated by the state needing the data or information.

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

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

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

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

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

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

3.1.4.4 Major legal and administrative decisions pertaining to water resources.

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

3.2 Correlation of Plans and Schedules.

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

**ADDRESS AND PHONE NUMBERS**  
**of WSWC Members and Staff**

- ACORD, John E. .... (406) 444-6627  
 Assistant Administrator  
 Water Resources Division  
 Department of Natural Resources & Conservation  
 32 South Ewing  
 Helena, Montana 59620
- ANAYA, Toney ..... (505) 827-3000  
 Governor of New Mexico  
 State Capitol  
 Santa Fe, New Mexico 87501
- ATIYEH, Victor ..... (503) 378-3100  
 Governor of Oregon  
 State Capitol  
 Salem, Oregon 97310
- BABBITT, Bruce ..... (602) 255-4331  
 Governor of Arizona  
 Statehouse  
 Phoenix, Arizona 85007
- BELL, D. Craig ..... (801) 521-2800  
 Executive Director  
 Western States Water Council  
 220 South 2nd East, Suite 200  
 Salt Lake City, Utah 84111
- BERRY, Leo, Jr. .... (406) 444-6699  
 Director  
 Department of Natural Resources & Conservation  
 32 South Ewing  
 Helena, Montana 59620
- BROETZMAN, Gary ..... (303) 320-8333  
 Director  
 Water Quality Control Division  
 Colorado Department of Health  
 4210 East 11th Ave., Room 320  
 Denver, Colorado 80220
- BRYAN, Richard ..... (702) 885-5670  
 Governor of Nevada  
 State Capitol  
 Carson City, Nevada 89701
- CHRISTOPULOS, George ..... (307) 777-7355  
 Wyoming State Engineer  
 Barnett Building  
 Cheyenne, Wyoming 82002

- DANIELSON, Jeris A. (Alt.) ..... (303) 866-3581  
 Colorado State Engineer  
 1313 Sherman Street, Room 818  
 Denver, Colorado 80203
- DINI, Joseph E., Jr. .... (702) 463-2868  
 Assemblyman  
 104 North Mountain View  
 Yerington, Nevada 89447
- DUNN, A. Kenneth ..... (208) 334-4437  
 Director  
 Department of Water Resources  
 Statehouse  
 Boise, Idaho 83720
- ECHOLS, Odis L. .... (505) 883-5053  
 Businessman and former State Legislator  
 4010 Carlisle N.E., Suite F  
 Albuquerque, New Mexico 87107
- EVANS, John V. .... (208) 334-2100  
 Governor of Idaho  
 State Capitol  
 Boise, Idaho 83720
- FRITZ, Gary (Alt.) ..... (406) 444-6601  
 Administrator  
 Water Resources Division  
 Department of Water Resources & Conservation  
 32 South Ewing  
 Helena, Montana 59620
- GETCHES, David H. .... (303) 866-3311  
 Executive Director  
 Department of Natural Resources  
 1313 Sherman Street, Room 718  
 Denver, Colorado 80203
- GRAY, Gene ..... (208) 612-3388  
 Route #1, Box 46-A  
 Payette, Idaho 83661
- HAAS, Wayne T. (Alt.) ..... (208) 334-4437  
 Administrator  
 Resource Analysis Division  
 Department of Water Resources  
 Statehouse  
 Boise, Idaho 83720
- HALLAUER, Wilbur G. (Alt.) ..... (509) 476-2486  
 P.O. Box 70  
 Oroville, Washington 98844

HERSCHLER, Ed ..... (307) 777-7134  
Governor of Wyoming  
State Capitol  
Cheyenne, Wyoming 82001

JENSEN, Dallin (Alt.) ..... (801) 533-4416  
Attorney General's Office  
1636 West North Temple, Suite 300  
Salt Lake City, Utah 84116

JOHNSON, Norman K. .... (801) 521-2800  
Legal Counsel  
Western States Water Council  
220 South 2nd East, Suite 200  
Salt Lake City, Utah 84111

KENNEDY, David ..... (916) 445-6582  
Director Department of Water Resources  
State of California  
P.O. Box 388  
Sacramento, California 95802

LAMM, Richard D. .... (303) 866-2471  
Governor of Colorado  
State Capitol  
Denver, Colorado 80203

LAWRENCE, Daniel F. .... (801) 533-5401  
Director  
Division of Water Resources  
1636 West North Temple  
Salt Lake City, Utah 84116

LOMBARD, Kip ..... (503) 482-8481  
State Representative  
H 389 State Capitol  
Salem, Oregon 97204  
(Ashland)

MC DONALD, J. William ..... (303) 866-3441  
Director  
Colorado Water Conservation Board  
1313 Sherman Street, Room 823  
Denver, Colorado 80203

MATHESON, Scott M. .... (801) 533-5231  
Governor of Utah  
State Capitol  
Salt Lake City, Utah 84114

MONTFORD, John T. .... (806) 747-0467  
State Senator  
4424 79th Street  
Lubbock, Texas 79424



- MOOS, Donald W. ..... (206) 459-6168  
 Director  
 Department of Ecology  
 Mail Stop PV-11  
 Olympia, Washington 98504
- NEMIR, Charles E. ..... (512) 475-3187  
 Executive Director  
 Texas Department of Water Resources  
 P.O. Box 13087, Capitol Station  
 Austin, Texas 78711
- PADDOCK, Bill (Alt.) ..... (303) 866-3611  
 Attorney General's Office  
 1525 Sherman Street, 3rd Floor  
 Denver, Colorado 80203
- PFEIFFER, Fred ..... (512) 227-1373  
 General Manager  
 San Antonio River Authority  
 P.O. Box 9284  
 San Antonio, Texas 78204
- PROCTOR, George ..... (503) 882-4436  
 Proctor & Puckett  
 289 Main Street  
 Klamath Falls, Oregon 97501
- PUGSLEY, Harry D. ..... (801) 581-0322  
 Attorney  
 940 Donner Way #370  
 Salt Lake City, Utah 84108
- REYNOLDS, S. E. ..... (505) 827-6091  
 New Mexico State Engineer  
 Bataan Memorial Building  
 Santa Fe, New Mexico 87501
- RHOADS, Willard C. ..... (307) 587-3787  
 Member, Wyoming Water Development Commission  
 Box 637  
 Cody, Wyoming 82414
- RIGBY, Ray W. ..... (208) 356-3633  
 Attorney  
 P.O. Box 250  
 Rexburg, Idaho 83440
- ROE, Charles B., Jr. ..... (206) 459-6163  
 Senior Assistant Attorney General  
 Temple of Justice  
 Olympia, Washington 98504

SCHWINDEN, Ted ..... (406) 444-3111  
Governor of Montana  
State Capitol  
Helena, Montana 59620

SIMMS, Richard ..... (505) 982-4554  
Hinkle, Cox, Eaton, Coffield & Hensley  
500 Don Gaspar, P.O. Box 2068  
Santa Fe, New Mexico 87501

SPELLMAN, John ..... (206) 753-6780  
Governor of Washington  
Legislative Building  
Olympia, Washington, 98504

SPENCER, John ..... (206) 459-6168  
Deputy Director  
Department of Ecology  
Mail Stop PV-11  
Olympia Washington 98504

STEINER, Wesley E. .... (602) 255-1550  
Director  
Department of Water Resources  
99 E. Virginia  
Phoenix, Arizona 85004

STOKES, Lee (Alt.) ..... (208) 334-4061  
Administrator  
Department of Health and Welfare  
Division of Environment  
Statehouse  
Boise, Idaho 83720

STONEHOCKER, Jack L. .... (702) 739-1902  
Director  
Colorado River Commission Of Nevada  
Mailroom Complex  
Las Vegas, Nevada 89158

SUDWEEKS, Calvin ..... (801) 533-6146  
Director  
Bureau of Water Pollution Control  
Utah State Division of Health  
P.O. Box 2500  
Salt Lake City, Utah 84110

TURLEY, Stan ..... (602) 255-4233  
President  
Arizona State Senate  
State Capitol Building  
1700 West Washington  
Phoenix, Arizona 85007

- WADDINGHAM, Thorpe A. .... (801) 864-2748  
 Attorney  
 P.O. Box 177  
 Delta, Utah 84642
- WESTERGARD, Roland D. .... (702) 885-4360  
 Director  
 Department of Conservation and Natural Resources  
 201 South Fall Street  
 Carson City, Nevada 89701
- WHITE, Mark ..... (512) 475-4101  
 Governor of Texas  
 State Capitol  
 Austin, Texas 78711
- WHITE, Warren ..... (307) 777-7574  
 2320 Capitol Avenue  
 Cheyenne, Wyoming 82002
- WILLARDSON, Anthony G. .... (801) 521-2800  
 Associate Director  
 Western States Water Council  
 220 South 2nd East, Suite 200  
 Salt Lake City, Utah 84111
- WILLEMS, Donald G. .... (406) 444-3948  
 Administrator  
 Environmental Sciences Division  
 Capitol Station  
 Helena, Montana 59620
- WOODS, Sidney ..... (602) 782-4466  
 President  
 The Woods Company  
 P.O. Box 190  
 Yuma, Arizona 85364
- YOUNG, William H. .... (503) 378-2982  
 Director  
 Water Resources Department  
 555 13th Street, N.E.  
 Salem, Oregon 97310

