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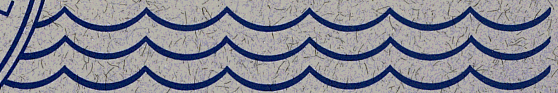
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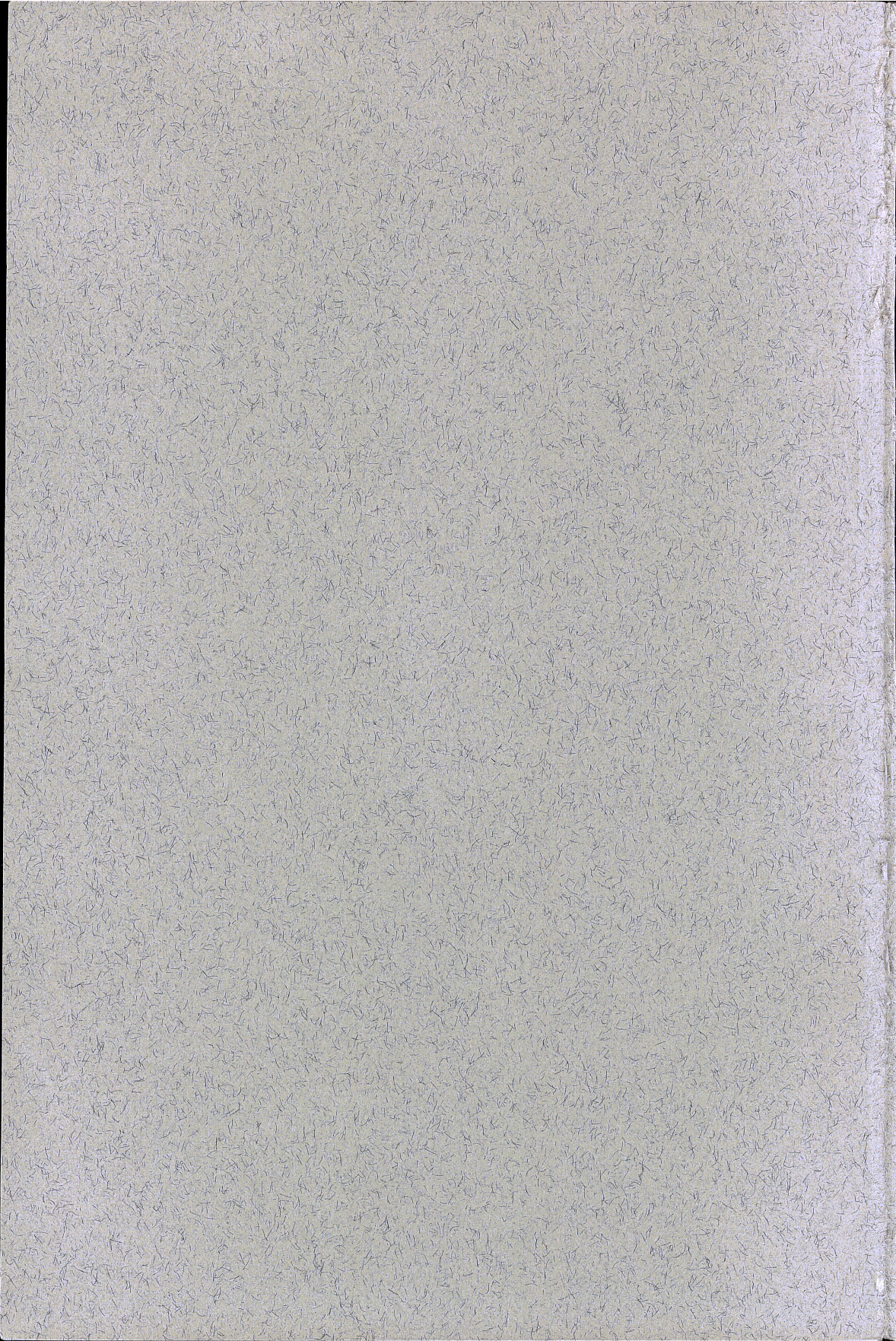
STATES

WATER

COUNCIL

**ANNUAL REPORT
1993**





1993
ANNUAL REPORT

of the
WESTERN STATES
WATER COUNCIL

Twenty-eighth Annual Report

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1993 ANNUAL REPORT OF THE WESTERN STATES WATER COUNCIL

INTRODUCTION

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

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

Originally, Council membership consisted of eleven western states: **ARIZONA, CALIFORNIA, COLORADO, IDAHO, MONTANA, NEVADA, NEW MEXICO, OREGON, UTAH, WASHINGTON and WYOMING.** In 1978, **TEXAS** was admitted to membership, after many years of participation in Council activities in an "observer" status. **ALASKA** requested and received membership in 1984. **NORTH DAKOTA** and **SOUTH DAKOTA** both received membership in 1988 after a long association with the Council. In 1991, **HAWAII** requested and received membership. Council membership is automatically open to all member states of the Western Governors' Association (which also includes the **State of Nebraska**). Other states may be admitted by a unanimous vote of the member states. **OKLAHOMA** was admitted as an associate member in January 1990. During 1993, due to severe budget cuts, the **State of Montana** requested and the Council approved temporary associate member status. Council membership stands at seventeen states.

Each member governor is an ex-officio member of the Western States Water Council. The governor appoints up to three representatives from his or her state, and as many alternates as deemed necessary, to serve on the Council at the governor's pleasure. Council officers, including a Chair, Vice-Chair, and Secretary-Treasurer, are elected annually from the membership. State representatives are appointed to the working committees, with one representative per state also appointed to the Executive Committee. The Executive Committee attends to internal Council matters with the assistance of the Management Subcommittee, which includes the Council officers, immediate past Chair, and Executive Director. The Council's working committees are the Legal Committee, the Water Quality Committee, and the Water Resources Committee. Each working committee is directed by a committee chair and vice-chair. Committee chairs, in turn, name special subcommittees and designate subcommittee chairs to study issues of particular concern.

The Western States Water Council offices are in Midvale, Utah. The staff is headed by D. Craig Bell, Executive Director. Working with Mr. Bell are: Tony Willardson, Associate Director; Norman K. Johnson, Legal Counsel; and a secretarial staff including Pearl Pollick, Carrie Curvin, Cheryl Redding, and Lynn Bench.

Positions and resolutions adopted at the quarterly meetings of the Council appear in this report. Meetings are held on a rotating basis among the member states, with state representatives acting as hosts to the other Council members and guests. In 1993, meetings were held in: Las Vegas, Nevada on January 13-15; Washington, D.C. on April 21-23; Anchorage, Alaska on July 14-16; and Coeur d'Alene, Idaho on October 6-8. Guest speakers are scheduled according to the relevant subjects to be considered at each meeting. The Council meetings are open to the public. Information regarding future meeting locations and agenda items can be obtained by writing or calling the Council's office.

**Creekview Plaza, Suite A-201
942 East 7145 South
Midvale, Utah 84047**

(801) 561-5300

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1993 WESTERN STATES WATER COUNCIL MEMBER STATES and MEMBERSHIP†

ALASKA

*Ex-Officio Member
**Executive Committee Member



*Governor Walter J. Hickel
1-91

**Ric Davidge
7-91
Mike Menge
10-91
Mead Treadwell (Alt.)
10-91

ARIZONA



*Governor Fife Symington
1-91

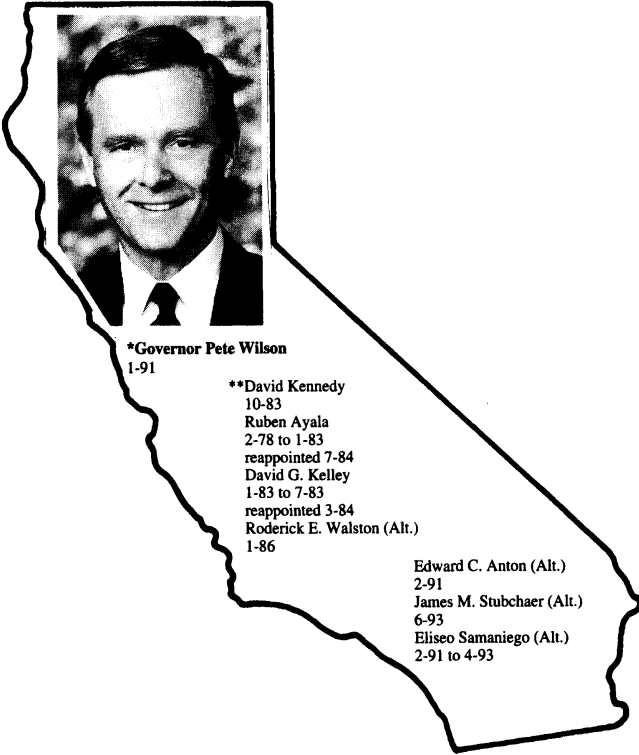
**Rita Pearson
6-91
Michael Brophy;
6-91
Edward Z. Fox
7-91

C. Laurence Linsler (Alt.)
6-88
Betsy Rieke
6-91 to 4-93

†The date under each name is the beginning date of tenure. A second date indicates the date that the appointment came to an end.

Alternate (Alt.) members are also listed

CALIFORNIA

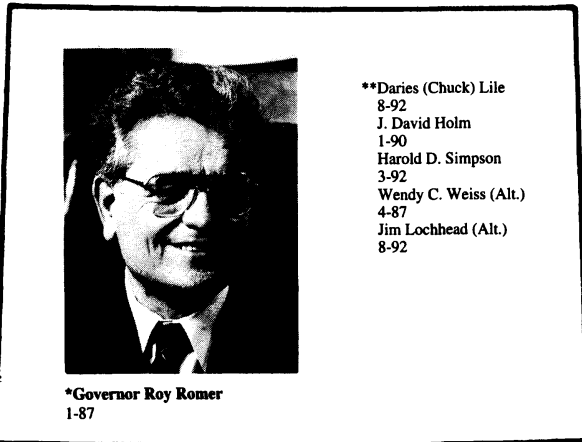


***Governor Pete Wilson**
1-91

****David Kennedy**
10-83
Ruben Ayala
2-78 to 1-83
reappointed 7-84
David G. Kelley
1-83 to 7-83
reappointed 3-84
Roderick E. Walston (Alt.)
1-86

Edward C. Anton (Alt.)
2-91
James M. Stubchaer (Alt.)
6-93
Eliseo Samaniego (Alt.)
2-91 to 4-93

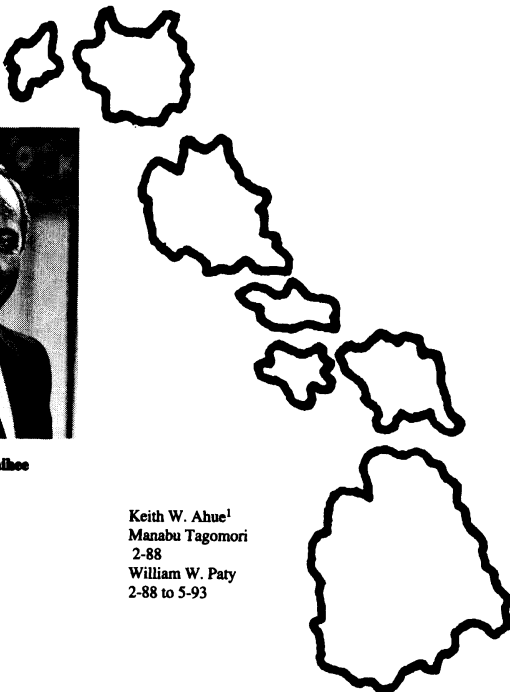
COLORADO



***Governor Roy Romer**
1-87

****Daries (Chuck) Lile**
8-92
J. David Holm
1-90
Harold D. Simpson
3-92
Wendy C. Weiss (Alt.)
4-87
Jim Lochhead (Alt.)
8-92

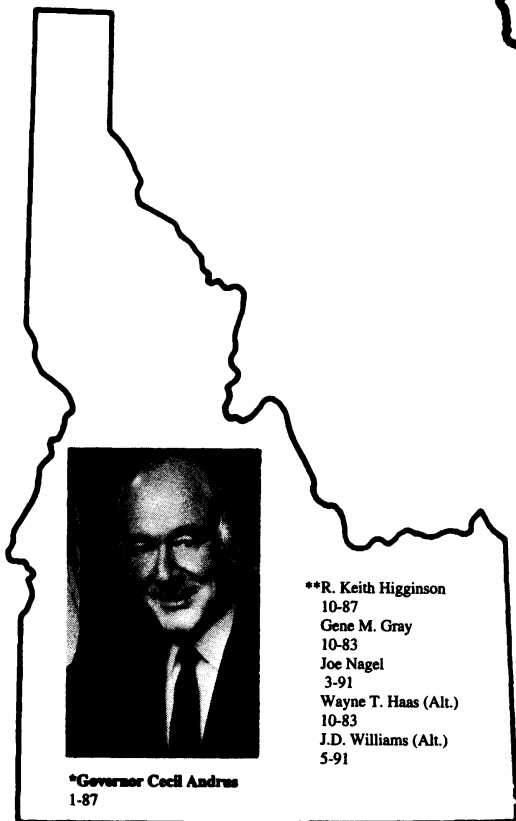
HAWAII



***Governor John Waihee**
1-86

Keith W. Ahue¹
Manabu Tagomori
2-88
William W. Paty
2-88 to 5-93

IDAHO



***Governor Cecil Andrus**
1-87

****R. Keith Higginson**
10-87
Gene M. Gray
10-83
Joe Nagel
3-91
Wayne T. Haas (Alt.)
10-83
J.D. Williams (Alt.)
5-91

¹ Mr. Ahue is listed here and elsewhere on this membership list by virtue of his office, pending receipt of a letter of appointment by the Governor.

NEVADA



***Governor Robert J. Miller**
1-89

****Roland D. Westergard**
5-68
Joseph E. Dini, Jr.
7-83
Thomas E. Cahill
7-92
Peter G. Morros (Alt.)
3-91

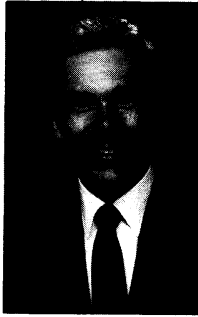
NEW MEXICO



***Governor Bruce King**
1-91

****Eluid L. Martinez**
4-91
Charles DuMars
2-84
Frank A. DuBois
4-87
Wayne P. Cunningham (Alt.)
7-88
Richard A. Simms (Alt.)
10-82 to 2-84
reappointed 4-91

NORTH DAKOTA



***Governor Ed Schafer**
1-93

****David A. Sprynczynatyk**
9-89
Francis Schwindt
9-88
Julie Krenz
11-90
Michael A. Dwyer (Alt.)
11-90

OREGON



***Governor Barbara Roberts**
1-91

****Martha O. Pagel**
6-92
Steve Sanders
7-90
Lorna Stickel
7-90

SOUTH DAKOTA



***Governor Walter D. Miller**
4-93

****Robert E. Roberts**
10-90
John Hatch
6-88
Steve Pimer
6-88
John Guhin (Alt.)
6-88
Marian Gunderson (Alt.)
6-88
Reese Peck (Alt.)
6-88

TEXAS



***Governor Ann Richards**
1-91

****John T. Montford**
10-83
Charles W. Jenness
7-91
Ron Lewis
7-91
Fred N. Pfeiffer (Alt.)
10-83
Pam Reed (Alt.)
11-91
J. David Montagne (Alt.)
9-92
Terral Smith (Alt.)
7-87 to 1-93

UTAH



***Governor Michael O. Leavitt**
1-85

****D. Larry Anderson**
3-85
Thorpe A. Waddingham
6-65
Dee C. Hansen
3-85
Dallin Jensen (Alt.)
7-71
Don A. Ostler (Alt.)
10-87

WASHINGTON



***Governor Mike Lowry**
1-93

****Hedia Adelsman**
1-87
Tom McDonald
11-91
Michael Llewelyn (Alt.)
11-91

WYOMING

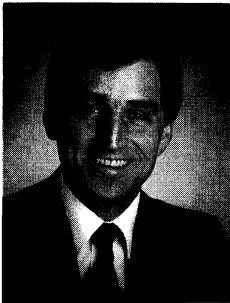


***Governor Mike Sullivan**
1-87

****Gordon W. Fassett**
3-87
Myron Goodson
6-65 to 3-83
reappointed 10-86
William L. Garland (Alt.)
10-90
George L. Christopoulos (Alt.)
4-75 to 8-93

ASSOCIATE MEMBER STATES

MONTANA




****Gary Fritz**
10-83
Steve Pilcher
4-88
Donald D. MacIntyre (Alt)
2-85
Harley R. Harris (Alt.)
6-91

***Governor Marc Racicot**
1-93

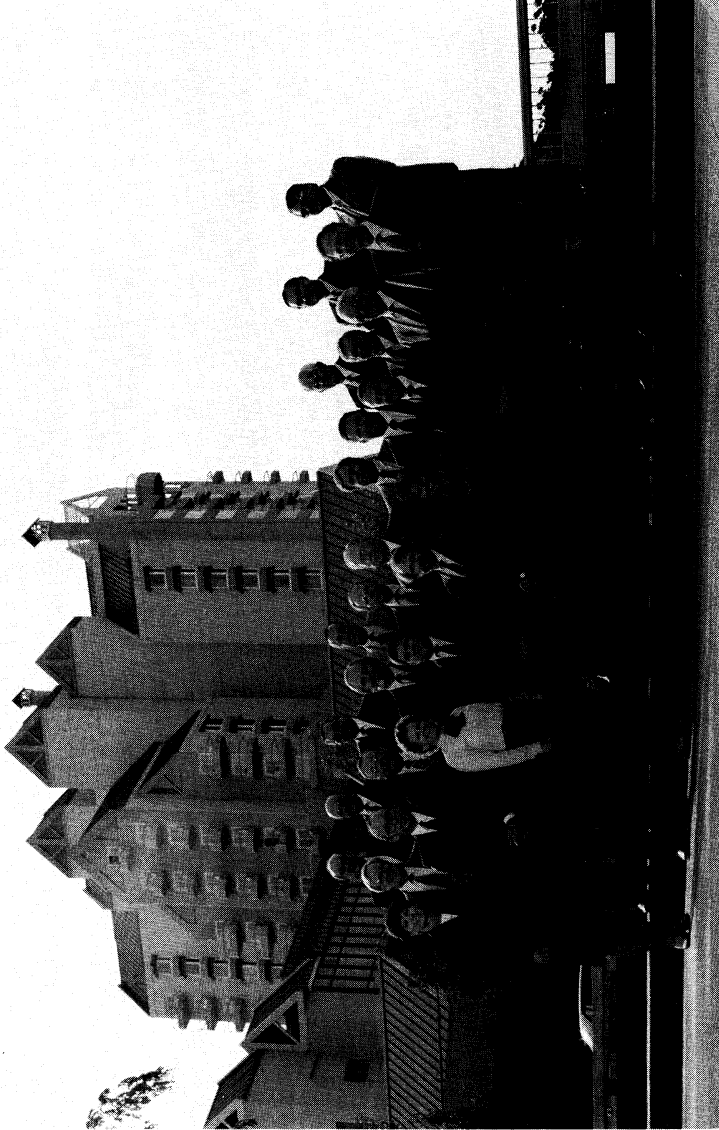
OKLAHOMA

Patricia P. Eaton
10-91
Glenn H. Sullivan
1-90 to 5-93



***Governor Dave Walters**
1-91

**COUNCIL MEMBERS
AT COEUR D'ALENE, IDAHO MEETING - October 1993**



**Front Row: Martha Pagen, Mike Brophy, Lorna Stickle, Jeff Fasset, Steve Sanders, Hedia Adelsman, Jim Stubchaer
Second Row: Ed Anton, Dave Kennedy, Ric Davidge, Wayne Cunningham, Myron Goodson, Gary Fritz, Francis Schwindt, Fred Pfeiffer, Roland Westergard, John Hatch
Third Row: J.D. Williams, Keith Higginson, Wayne Haas, Larry Linser, Dee Hansen, Larry Anderson, Chuck Lile**

STAFF

D. Craig Bell Executive Director
Anthony G. Willardson (Tony). Associate Director
Norman K. Johnson Legal Counsel
Pearl O. Pollick Secretary
Carrie Curvin Receptionist/Report Secretary
Cheryl Redding. Office Manager
Lynn Bench. Secretary
Jaymi Lloyd Secretary



Left to Right: Craig Bell, Lynn Bench, Carrie Curvin, Pearl Pollick, Jaymi Lloyd, Norm Johnson, Cheryl Redding, and Tony Willardson

Council offices are located at:

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QUARTERLY MEETINGS

109th Quarterly Meetings January 13-15, 1993 Las Vegas, Nevada

The Western States Water Council held its 109th quarterly meetings in Las Vegas, Nevada on January 13-15. Dennis Underwood, Bureau of Reclamation Commissioner, was a special guest. He described the Bureau's Strategic Plan and draft implementation plans. Mr. Underwood noted that while the yield of Bureau projects has not changed for 25 years, demand has grown significantly. The Strategic Plan has 25 elements, many of which Mr. Underwood discussed, stressing the need to add value and benefits without negative tradeoffs.

A panel of Council members discussed intrastate water marketing in the Legal Committee. The panel included: Steve Sanders, Dave Kennedy, Hedia Adelsman, and Jim Lochhead. It focused on a number of questions: Who can make a transfer? What type of water, "real" or "paper," can be transferred? What is the role of state regulatory entities in the transfer process? How can third party impacts be mitigated? How should water conservation and water use efficiency matters be handled? How should the effects of out-of-basin transfers be compensated? The Committee also discussed the Edwards Aquifer case, the Western Governors' Association (WGA) resolution on the Endangered Species Act reauthorization, and an amicus brief supporting the State of Idaho's contention in United States v. Idaho, before the U.S. Supreme Court, that the United States should be required to pay filing fees in the Idaho general stream adjudication. The brief was prepared by the Council staff and the Oregon Attorney General's office.

A panel of experts also addressed the Water Quality Committee on Safe Drinking Water Act (SDWA) issues. The panel included: Council member Francis Schwindt, North Dakota, a participant in the Governors' Forum on Environmental Management; Doris Sanders, Chief of the Public Water Supply Program Section, Environmental Protection Agency (EPA) Region VIII; and Jeff Fontaine, Nevada, Member of the Board of the Association of State Drinking Water Administrators. They discussed the need for increased federal funding and flexibility in implementing SDWA requirements, and the need for legislative changes. Ms. Sanders described the legal and institutional barriers EPA faces in carrying out its SDWA role and the enormous problems small water supply systems face. Some states are on the brink of losing SDWA primacy, threatening optimum program implementation. Later, Lew Dodgion of Nevada described for the Committee issues related to Clean Water Act Section 518, which allows Indian tribes to be treated as states for many purposes. He noted that the most contentious issues involve problems between the states and EPA, rather than the states and Indian tribes. The Committee also discussed national ground water policy issues.

The Water Resources Committee meeting featured a discussion on federal hydropower licensing between John Clements, Deputy Director of the Federal Energy Regulatory Commission's (FERC) Office of Hydropower Licensing, and Keith Higginson, Director of the Idaho Department of Water Resources. FERC and the states are considering alternatives for increasing cooperation in the licensing process through a memorandum of agreement. The Committee also heard Jack Stonehocker and Brad Crowder, both with the Bureau of Reclamation, describe their respective activities related to the Emergency Drought Relief Act and the Ground Water Recharge Demonstration Program. Next, Lorna Stickel of Oregon described EPA's proposed national clearinghouse for water use efficiency information. Lastly, Council staff briefly described important sections of various bills passed by the last Congress, including the omnibus Reclamation Projects Authorization and Adjustment Act (including the Western Water Policy Review Act), the Corps Omnibus Water Resources Development Act (which extended authorization for a state dam safety grants program, not yet funded), FY93 Energy and Water Appropriations, and the National Energy Policy Act.

The Executive Committee met and accepted Dee Hansen's resignation as the Council's Secretary/Treasurer, due to his retirement. He will continue as a Council member. The Committee recommended, and the Council later elected Larry Anderson, Director of Utah's Division of Water Resources, as Secretary/Treasurer.

The 109th WSWC Quarterly Meeting, on January 15, featured a panel on water supply challenges facing southern Nevada. Pete Morros, Director of the Nevada Department of Conservation and Natural Resources and former Nevada State Engineer, focused on the ground water resource. He described a 1970s state report that advocated long range water planning and discussed regulatory alternatives that seemed burdensome at the time, but which must now be implemented. Garth Winkler, Colorado River Commission of Nevada, stressed that southern Nevada is aggressively seeking new sources of water and will consider all alternatives including large-scale interbasin importation schemes. Scott Higginson, Las Vegas City Councilman, described the birth of the Southern Nevada Water Authority (SNWA) as a "modern political miracle" which brought local entities together to agree on a unified approach to resolving their water problems, including the concept of shared shortages when and where necessary.

Patricia Mulroy, General Manager of the Las Vegas Valley Water District (and SNWA), described the comprehensive approach being used to address water supply problems. Explosive growth and limited supply alternatives have led local agencies to agree to pool their resources, regardless of priority, to meet regional needs. Nevada is entitled to 300,000 acre-feet of water from the Colorado River mainstream for "exclusive...consumptive use." Mulroy explained that SNWA is using water conservation, water reuse, and ground water banking to stretch supplies. She said that accounting for Nevada's return flow credits had been largely neglected until recently, but that Nevada is now using them heavily by treating and reusing wastewater and redistributing it based on need. This has generated 58,000 acre-feet of water referred to as "Nevada's last allocation" from the Colorado River. She also noted that the Virgin River is being considered as a source of water supply, but that tapping it could be contentious.

Finally, the Council heard from John Kusler, Association of State Wetland Managers, on the Statewide Wetlands Strategies report.² He reviewed state wetland activities, noting that half of the states have a wetlands strategy and thirteen have state wetland programs. Further, a number of western states have taken other action to protect wetlands. Congress has been unable to agree on wetlands policy. He predicted federal funding will be limited, and that the new Administration will be pro wetlands protection, but pragmatic. Interest in wetlands policy is growing.

**110th Quarterly Meetings and Water Policy Seminar
April 21-23, 1993
Washington, D.C.**

Oregon Senator Mark Hatfield (R), several key Congressional committee staff, many personal staff, and a number of federal agency representatives joined Western States Water Council members at the Council's fifth biennial Water Policy Seminar held in conjunction with the quarterly Council meetings on April 21-23, in Washington, D.C. Senator Hatfield described the West as "an area of water maldistribution" where water resource issues are extremely important. Using a six foot long flow chart, he outlined the complexity of water policy decisionmaking at the federal level. He added that the West must solve its problems or "someone at the federal level will solve them for us." With this in mind, he emphasized the importance of the recently created Western Water Policy Review Commission,³ saying its report must be proactive, balanced and regional in scope. He noted Interior Secretary Babbitt is very supportive of the Commission's work. The Interior Solicitor is reviewing the legal status of the Commission appointments made by former President Bush. Senator Hatfield believes the Commission will be funded regardless of the outcome of that review.

The Water Policy Seminar focused on federal/state relations in water resource management. Two major issues were discussed: the transfer of federal projects to states, and implementation of the Endangered Species Act (ESA). While there are many theoretical advantages to transferring federal projects to state control and/or ownership, there is a wide and very complex set of issues that must be addressed. Much work remains to be done before transfers will become a reality. The ESA discussion highlighted a number of points: (1) current ESA implementation is directly at odds with the Park City Principles;⁴ (2) Interior Secretary Babbitt favors consensus rather than confrontation; (3) changes in the law to promote efficiency are likely, but changes to substantially weaken the act are not; (4) endangered species problems are long-term, and effective leadership within the water community will be needed to resolve them; and (5) the political dynamics of endangered species-related problems at the local level are especially complex.

² *Western States Water*, Issue #966, November 20, 1992.

³ *Western States Water*, Issue #964, November 6, 1992.

⁴ *Western States Water*, Issue #938, May 8, 1992.

Next, the Water Resources Committee met briefly and discussed the ground water recharge study being carried out under a contract with the Bureau of Reclamation, federal hydropower licensing and state water law issues, and the status of work on state water conservation programs and state water use fees.

Ed Osann, National Wildlife Federation, outlined his views on a recent "revolution regarding water use efficiency," before the Legal Committee. He said most of the best work is being done at the local level, but some innovative things are happening at the federal level. He mentioned sections of the omnibus Reclamation Projects Authorization Act that would prompt conservation, particularly the Central Utah Project provisions, which will make Utah a national center for innovation in efficient water use. He also mentioned provisions of the National Energy Policy Act that set national standards for water conserving plumbing fixtures. Following his opening remarks, he posed a question to Council members: How can western states encourage and enhance the water use efficiency revolution, especially regarding agriculture? The discussion which ensued highlighted the opportunities and limitations that underlie water use efficiency in the West. The rest of the Legal Committee meeting was spent discussing litigation.

The Water Quality Committee meeting began with Ramona Trovato, EPA Office of Ground Water, describing EPA ground water and drinking water issues. She added that SDWA primacy issues are of great concern to EPA. Three states are on the verge of losing primacy. She also said that with limited financing, EPA cannot continue to perform the required scientific work necessary to identify 25 new contaminants every year. Further, she said that stronger pollution prevention programs must be implemented. She noted that a new EPA position on comprehensive state ground water protection programs had not yet been finalized,⁵ and added that funding for EPA ground water efforts has been cut by 50%.

Next, the Water Policy Seminar continued with a roundtable discussion on the Clean Water Act reauthorization. The following points, among others, were made: (1) EPA had no CWA reauthorization position yet; (2) the House had not yet begun drafting a reauthorization bill, but had begun holding hearings; (3) the House was waiting for signals from the Administration before it begins drafting a bill; (4) the Senate had a very ambitious schedule to report a draft bill with Senator Bob Graham (D-FL) taking the lead; (5) language from S. 1081 from the last session of Congress⁶ will be used in drafting the Senate bill; (6) consensus issues of importance include funding, non-point source pollution, watershed protection, and stormwater problems; (7) while wetlands is also an important issue, there is no agreement as to how to deal with it; and (8) states, particularly western states, need flexibility and sufficient funding to carry out CWA mandates.

After the roundtable discussion, an informal social gathering was held in the Senate Russell Building, where Assistant Interior Secretary-Designate Betsy Rieke, and Bureau of Reclamation Commissioner-Designate Dan Beard, joined the group to extend their greetings.

⁵ *Western States Water*, Issue #948, July 17, 1992.

⁶ *Western States Water*, Issue #889, May 31, 1991.

The Water Policy Seminar continued on Friday morning, as part of the Council's quarterly meeting, with remarks by Senator Hatfield (reported above) and Joe Hall, Bureau of Reclamation Deputy Commissioner. Mr. Hall emphasized the changing nature of the Bureau's role, the Bureau's strategic plan, and its new leadership. He also reviewed recent legislative changes under the omnibus reclamation legislation, and the need to respond to deficit reduction requirements by "doing more with less." Further, he said that the people the Bureau serves are "more ready to accept change than in the past," and he concluded "we can no longer put off making changes...we must be responsible for making changes come to pass, and therefore we must work together."

The Council approved a resolution of appreciation for former Council member Betsy Rieke, who left her position as director of the Arizona Department of Water Resources to become Interior Assistant Secretary for Water and Science. Also, John Hatch of South Dakota mentioned the tragic death of Governor George Mickelson, who died in a plane crash in eastern Iowa on April 19. Governor Mickelson was co-lead for water for the Western Governors Association. He has been replaced by Lt. Governor Walter Dale Miller.

**111th Quarterly Meeting
July 14-16, 1993
Anchorage, Alaska**

Alaska hosted the quarterly meetings in Anchorage, on July 14-16. Ric Davidge, Director of Alaska's Department of Water, arranged many memorable activities including tours of the TransAlaska pipeline and terminal facilities at Prudhoe Bay and Valdez, the Alyeska Ski Resort and Portage Glacier. At a state dinner with many of Alaska's legislative and executive officers, Governor Walter Hickel addressed members and lauded Alaska's abundant, high quality water and opportunities for its use on a national and international scale. He referred to Alaskans' vision of big projects, like the oil pipeline, and the state's determination to overcome obstacles to their realization.

The Council's standing committees met and addressed a number of topics. The Legal Committee discussed several recent court decisions including United States v. Idaho,⁷ New Mexico v. Lewis,⁸ and two cases interpreting Section 401 of the Clean Water Act.⁹ Next, a discussion was held on Endangered Species Act matters. The Committee determined it would prepare an issue paper on opportunities to improve coordination and consultation between state and federal agencies. The committee also approved preparation of an issue paper on intrastate water transfers in the West, and discussed its third symposium, cosponsored with the Native American Rights Fund, on the Negotiated Settlement of Indian Reserved Water Rights Claims.¹⁰

⁷ *Western States Water*, Issue #990, May 28, 1993.

⁸ *Western States Water*, Issue #994, June 4, 1993.

⁹ *Western States Water*, Issue #987, April 16, 1993.

The Water Quality Committee discussed S. 1114 and the Council's proposed position on the Clean Water Act (CWA) reauthorization.¹¹ An amended position statement was recommended to, and later approved by, the Council. Another topic was wetlands regulation and the many differences between the number and type of wetlands in Alaska, compared to the lower 48 states, as well as attempts to respond to those differences and the need for further action. The Committee also discussed a planned WSWC/Western Governors' Association (WGA) meeting on watershed management issues.

The Executive Committee accepted the Management Subcommittee's budget report, and discussed the status of state membership and dues. Of note, Julia Doermann reported that during the WGA annual meeting, Texas was admitted as a WGA member. Texas became a WSWC member in 1978, after many years as an observer. Texas' membership was delayed because the state was not then affiliated with the Western Governors Conference. The Executive Committee also discussed future Council meetings and determined to survey member states regarding the advantages and disadvantages of different alternatives, including meeting less frequently.

The Water Resources Committee discussed work on a draft hydropower licensing memorandum of agreement, prepared by Keith Higginson of Idaho, which had been sent to the Federal Energy Regulatory Commission (FERC) for comment. As four new commissioners were named recently, FERC has yet to respond. Keith asked member states for their comments. Next, staff reported that a cooperative study of the Bureau of Reclamation's Ground Water Recharge Demonstration Program had been extended through September 1994, and that work on the water conservation report was continuing. Further, Ric Davidge discussed a number of questions to be addressed in a study of state water use fees. Members also briefly discussed the Western Water Policy Review Commission, the proposed federal irrigation water service surcharge and natural resources restoration fund, and a report on federal water project transfers. Then Lorna Stickel explained Oregon's watershed management program. Lastly, a special panel of Texas members, including state representative Ron Lewis, Fred Pfeiffer, Pam Reed, Charles Jenness and Mark Jordan, representing various Texas agencies, discussed the recently enacted Edwards Aquifer management legislation.

Alaska Lieutenant Governor Jack Coghill addressed members during the full Council meeting on water resource management in an arctic environment. A number of other state officials also addressed specific topics, including wetlands, instream flows, data and fisheries management issues, and the Alaskan Native Village Safe Water Program. The Council also heard a panel discussion on the integration of water quantity and water quality issues under state law, with viewpoints expressed by California, Oregon and Alaska members.

¹⁰ *Western States Water*, Issue #996, June 18, 1993.

¹¹ *Western States Water*, Issue #999, July 9, 1993.

The Council approved a position statement on CWA reauthorization legislation that will be sent to members of Congress and others. It addresses funding, watershed management, non-point source pollution, effluent dominated waters and water reuse, stormwater, and water quality controls on tribal lands, among other matters.

The Council reelected Dave Kennedy as Chair, Keith Higginson as Vice Chair, and Larry Anderson as Secretary-Treasurer. The Council also honored Roland Westergard of Nevada, Myron Goodson of Wyoming and Thorpe Waddingham of Utah for over 25 years of service. Chairman Kennedy noted the "remarkable nature of such an accomplishment in a multistate organization where members serve at the pleasure of their governors."

**112th Quarterly Meetings
October 6-8, 1993
Coeur d'Alene, Idaho**

The quarterly meetings were held on October 6-8, at the Coeur d'Alene Resort in Idaho. A number of important matters were addressed. Of note, the Federal Energy Regulatory Commission (FERC) Subcommittee met and listened as John Clements, Deputy Director of the Office of Hydropower Licensing, reported that after reviewing a draft memorandum of agreement (MOA) prepared by the state of Idaho, with WSWC support, FERC Chair Elizabeth Moler had determined that an MOA was not an appropriate vehicle for resolving federal/state differences. Indeed, she feels the proposed MOA would delegate authority to the states that the Federal Power Act and Electric Consumers Protection Act reserved to FERC, and thus create an illegal dual system of jurisdiction. In response to earlier state calls for Congress to address federal/state issues, former FERC Chair Martin Allday had promised an administrative effort to resolve differences. The Council suggested and worked with FERC staff on the draft MOA for more than a year. However, in response to questions, it was apparent FERC now sees no way an MOA could work. The meeting was abruptly adjourned.

On Thursday, the Water Resources Committee met and Mr. Clements repeated his message regarding the FERC MOA. Members expressed disappointment, if not surprise, and decided to write Chair Moler asking for a written response and explanation of objections to the proposed MOA. Hedia Adelsman also reported on WGA/WSWC testimony she had presented before Congress regarding language to strengthen existing state authority over permitting federal projects, including federal hydropower projects, under Section 401 of the Clean Water Act. Members were urged to express their support for the proposed legislative changes. The committee also discussed state water use fees, a water conservation study, a study of ground water recharge, federal water project transfer issues, federal grazing/water rights policy, a western drought conference, and a proposed state water resources data management workshop.

The Water Quality Committee discussed the Administration's recommendations for reauthorization of the Safe Drinking Water Act,¹² and its new wetlands policy.¹³ Some members expressed cautious support for many of the changes. Committee members also discussed S. 1304, Senator Baucus' wetlands bill, noting the many similarities to the Administration's proposal. Reauthorization of the Clean Water Act (S. 1114) was addressed, focusing on the timing of Congressional action, the WSWC's position (particularly the watershed language), and the position of the Association of State and Interstate Water Pollution Control Administrators.

The Legal Committee discussed possible state approaches to dealing with the U.S. Supreme Court's ruling in U.S. v. Idaho¹⁴ that the United States is not subject to the payment of the type of fees charged by the state in its general adjudication proceeding. Next, the committee evaluated the third WSWC/Native American Rights Fund Symposium on the Settlement of Indian Reserved Water Rights Claims.¹⁵ The committee also spent a good deal of time discussing a draft report on improving relations between federal entities and state water resource managers, so as to enhance endangered species protection, while at the same time respecting state water management decisions. The committee also discussed a number of recent court cases, Oregon's new water conservation law, and the reserved rights language in the recent Colorado wilderness bill.

The Executive Committee approved WSWC cosponsorship of a WGA workshop to convene a broadly representative group to consider successful watershed management efforts, extract any lessons, examine agency watershed initiatives, share information and explore ways to enhance coordination of activities and players. The committee also decided to hold another water management symposium. Of note, the Executive Committee reviewed the results of a survey of member states' preferences regarding the frequency of Council meetings. In light of limited state budgets and Council members' time, a majority of states favored meeting three times a year, rather than four. After some discussion, the committee agreed to suggest the Council make the transition.

On Friday, the 112th Quarterly Meeting began with a panel discussion of efforts in the Coeur d'Alene basin to remediate pollution related to mine waste (as well as other sources) on a voluntary basis. A number of state, federal and local representatives discussed their interest in beginning to correct past and present problems in the basin without waiting for federal action under the Comprehensive Environmental Response, Cleanup, and Liability Act (CERCLA) or Superfund mandates, which are cumbersome and can result in open-ended liability for certain parties, while leaving some "orphan sites" with no viable party responsible for cleanup. In order to address these problems, a voluntary, cooperative council was created. Panel members represented the Idaho Departments of Health and Environmental Quality, EPA, Hecla Mining, and the Coeur d'Alene Indian Tribe.

¹² *Western States Water*, Issue #1011, October 1, 1993.

¹³ *Western States Water*, Issue #1006, August 27, 1993.

¹⁴ *Western States Water*, Issue #990, May 7, 1993.

¹⁵ *Western States Water*, Issue #1009, September 17, 1993.

Elizabeth Ann Rieke, Assistant Secretary of Interior for Water and Science (and a former WSWC member), was also a special guest. She briefed members on the Administration's goal of "reinventing government," as well as earlier Interior initiatives examining the need for virtually every program. Betsy discussed efforts to resolve a number of longstanding conflicts, including the Pacific Northwest salmon and Sacramento-San Joaquin River Delta issues. Part of the challenge is that federal agencies' actions are not well coordinated. Another problem is that the "science" is not well settled. Secretary Bruce Babbitt strongly supports creation of a National Biological Survey to provide "credible" independent scientific information, but the proposed federal legislation has been caught up in the frustration over reauthorization of the Endangered Species Act. While Interior has had some success in resolving ESA problems using habitat conservation plans, the Northwest salmon and Delta controversies involve many more complex issues. After her formal remarks, Betsy responded honestly and directly to a number of questions from members.

Each of the standing committees reported on various topics, as well as discussions and priorities related to their 1994 work plan items. A final work plan will be approved at the January meetings. There were no external positions considered, but the Council did adopt a resolution of appreciation in honor of retiring member George Christopolus.¹⁶ George was first appointed as a member in 1975. He was elected as the WSWC Chair in 1979, and served with distinction. He retired as the Wyoming State Engineer in 1987, but continued on the Council as an alternate member. He resigned in 1993 in order to pursue retirement on a "full-time basis". Also, the Council unanimously agreed to suspend the rules, and experiment with reducing the number of meetings to three per year, beginning in 1995. Individual states reported on significant events and activities.

In 1994, the meetings have been scheduled for: January 12-14, on Maui, in Hawaii; April 13-15, in Seattle, Washington; August 17-19, in Cody, Wyoming; and December 7-9, in San Antonio, Texas.

¹⁶ *Western States Water*, Issue #1007, September 3, 1993.

OTHER IMPORTANT ACTIVITIES AND EVENTS

In addition to the Council's regular quarterly meetings and formal resolutions and position statements, which are described elsewhere, several other important activities and events occurred.

In Memorium

Tom Choules, a former Council member and friend, passed away October 8, in Arizona. He was 65. Tom suffered for many years with health problems related to diabetes, but he was always cheerful and active. Tom was active in his church and his community. He enjoyed golf and tennis. An attorney, he was president of the Arizona Bar Association, and represented many water interests, including the Wellton-Mohawk Irrigation District. For over seventeen years, he represented Arizona as a WSWC member, serving as chair of the Legal Committee and numerous subcommittees. He often came to WSWC meetings with a box of dates from a farm in Yuma that he partly owned. We will miss his friendship, and express our sympathy to his wife Ida.

Western States Water

The 1000th issue of Western States Water, the Council's weekly newsletter, was published in 1993!¹⁷ For nearly twenty years it has been one of the Council's most visible and well received products. Its primary purpose is to provide governors, members, and others with accurate and timely information with respect to important events and trends, in order to promote better federal, state, and local decisionmaking and problemsolving. It is intended as an aid to help achieve better water management, improve intergovernmental relations, promote western states' rights and interests, and point out policy trade-offs. In addition, it covers meetings, changes in Council membership, and other Council business.

The newsletter is provided as a free service to members, governors and their staff, member state water resource agencies, state water users associations, selected multi-state organizations, key congressmen and their staffs, and top federal water officials. Other public and private agencies or individuals may subscribe for a \$75 fee. For information contact the Council office.

Water Law Workshop

The 11th Annual Water Law Conference cosponsored by the American Bar Association, the Western States Water Council, and the Conference of Western Attorneys General was held February 11-12, in San Diego, California. About 200 people attended. Issues discussed included takings law, Indian water rights matters, drought

¹⁷ Western States Water, Issue #1000, July 20, 1993.

management, trends involving changes in water use, and the use of effective hydrologic models in the context of water rights litigation.

Water Policy and Management Workshops

The WSWC and Western Governors' Association (WGA) cosponsored the fourth workshop in a series on water management in Newport Beach, California on February 18-19. Three earlier meetings were held in Park City, Utah. Approximately 60 people attended, representing a wide array of interests associated with water management in the West. Keith Higginson, WSWC Vice-Chair welcomed participants and stated that the purpose of the workshop was to assess current state capacity to achieve the goals developed at the earlier Park City workshops, to identify obstacles to enhancing this capacity, and to develop recommendations for overcoming these obstacles. Jo Clark, WGA Program Director, spoke about influencing national policies.

Dave Getches, the workshop facilitator, explained the main objective was to analyze how federal programs impact state water management and water use, and compare with the "Park City Principles," developed in the earlier workshops. Norman Johnson, WSWC Legal Counsel, presented a matrix on state water management showing the evolution of state laws and policies respecting public interest criteria, instream flows, and watershed planning and management. Tom Bahr, Director of the New Mexico Water Resources Research Institute, summarized a legal research project sponsored by the Powell Consortium, an alliance of western university institutes for the study of water and the environment. Professor Charles DuMars, a New Mexico Council member and member of the Powell Consortium, presented a paper examining interstate compacts, the commerce clause, and the adjudication of tribal water rights.

Following a brief examination of the results of a pre-workshop survey, Dave Getches led a discussion on suggested recommendations, which were clustered and assigned to five work groups that identified obstacles to their implementation and, in some cases, suggested ways the obstacles might be overcome. A panel was asked to critique the recommendations. A discussion followed with the entire group that evolved into an effort to reach consensus and identify appropriate follow-up strategies. A report summarizing the activities, findings, and recommendations, to go along with a summary of the first three Park City workshops, will be available in the future from the WGA.

Water Policy Seminar

The Council's fifth biennial water policy seminar was held in conjunction with the 110th WSWC quarterly meetings in Washington, D.C. on April 21-23, described earlier in this report. Special guests included Oregon Senator Mark Hatfield, Joe Hall, Bureau of Reclamation Deputy Commissioner, Ramona Trovato, EPA Office of Ground Water, Ed Osann, National Wildlife Federation, and Dan Beard and Betsy Rieke, President Clinton's new nominees as, respectively, Bureau of Reclamation Commissioner and Assistant Secretary of Interior for Water and Science. Roundtable discussions focused on reauthorization of the Clean Water Act and federal/state relations

in water resources, particularly related to implementation of the Endangered Species Act and the possible transfer of federal ownership and/or operation of water resource projects to the states. Discussions involved WSWC members and other state representatives, Congressional staff, and numerous representatives of the Executive Branch from the Department of Interior, Office of the Assistant Secretary of the Army for Civil Works, Office of Management and Budget, U.S. Fish and Wildlife Service, Environmental Protection Agency, and Bureau of Reclamation.

Western Governors' Association Annual Meeting

The Western Governors' Association held its annual meeting in Tucson, Arizona on June 19-22. The governors, under the leadership of Chair Fife Symington of Arizona, addressed several issues important to the West. Governor Bob Miller of Nevada, was elected WGA Chair to succeed Governor Fife Symington, and Governor Mike Leavitt of Utah was elected Vice-Chair. Dave Kennedy, WSWC Chair and Director of the California Department of Water Resources, reported on Council activities. Assistant Interior Secretary for Water and Science, Elizabeth Rieke, also addressed the governors. She described the Colorado River as a river of controversy, which is "locked up in the Law of the River." She said, this "prevents us from moving forward" toward cost effective salinity control measures, endangered species protection, and supplying water to burgeoning populations. She concluded, "figuratively speaking, we need to melt these chains." Earlier, elsewhere, Interior Secretary Bruce Babbitt, had observed that Las Vegas is forced to turn to much more costly solutions to its water supply problems because "...under existing law...[it] cannot take more water from the Colorado River, which runs right by its own doorstep.... I pledge to find a market mechanism to help Las Vegas enter a new era of water management".¹⁸ Ms. Rieke also referred to the challenges associated with the salmon issues in the Northwest as an even bigger task. She said, "We don't have a good idea about what must be done, but we must try."

Water Management Symposium - Indian Reserved Rights

On September 7-9, over 200 people gathered in Bismarck, North Dakota to participate in the third Symposium on the Settlement of Indian Reserved Water Rights Claims cosponsored by the WSWC and the Native American Rights Fund (NARF). The event included the Dakota Plains Dancers presenting a special cultural performance chronicling the history of the modern day powwow. The symposium was attended by Indian, local, state, and federal government officials, as well as water users and various industry and other interest groups. The initial discussion focused on the basics of negotiating settlements, gathering background information, the role of technicians in negotiations, identifying parties and issues, and how negotiators bind larger groups. Administrative issues were also covered, along with establishing and improving communications. Speakers examined dispute resolution, water rights management in Indian country, and water marketing proposals in the Colorado and Missouri River basins.

¹⁸ *Western States Water*, Issue #991, May 14, 1993.

Joseph Little, representing the Department of Interior, reiterated the Administration's support for the negotiated settlement of Indian water right claims and Interior's intent to flexibly interpret the present principles and guidelines on settlements. He said it would be a challenge to provide qualified federal negotiating teams to fill an increasing number of tribal requests. Mike Jackson, Senate Committee on Indian Affairs, and Steve Heeley, House Native American Affairs Subcommittee, next discussed getting bills through Congress. Joe Ely, a well-known tribal representative, provided the wrap-up speech. Audio cassettes of the meeting are available.

Bureau of Reclamation's Strategic Plan

In 1993, Reclamation's leadership and direction changed under a new Administration. President Bill Clinton appointed Dan Beard, former staff director for Rep. George Miller (D-CA) and an outspoken critic of the Bureau of Reclamation, as its new Commissioner. Later, Ed Osann, former water program manager for the National Wildlife Federation, was named as policy director. Commissioner Beard released a new Blueprint for Reform on November 1, 1993. It stated that Reclamation's mission is: "To manage, develop and protect water and related resources in an environmentally and economically sound manner in the interest of the American public."

The guiding principles in accomplishing this mission are to include: (1) facilitating water transfers to new uses according to state law; (2) coordinating and improving management of existing water and power resources; (3) promoting sustainable and environmentally sensitive water and land uses; (4) facilitating integrated water resources management on a watershed basis; and (5) promoting fiscal responsibility and sound business practices. A common set of values embraced in the report address leadership, accomplishment, respect, recognition, service, trust, responsibility, innovation, teamwork, diversity, communication, public trust and ethics.¹⁹

However, some Reclamation employees believed the proposed reforms were really a concerted effort to "destroy the technical viability and dilute what remains of the organization by massive layoffs and dispersing organizational elements to 'area' offices ...directly controlled by political appointees...who would do their best to phase out existing irrigation and power projects."²⁰

Clean Water Act

During 1993, the Council continued to participate in the debate on reauthorization of the Clean Water Act (CWA). Senator Baucus and others introduced S. 1114, to reauthorize the CWA, but no bill was introduced in the House. The Council approved a CWA resolution and circulated it to House and Senate staff members, and western senators and congressmen. S. 1114 was redrafted by a subcommittee of the Senate Environment Committee, and some changes were made to the bill that brought it closer

¹⁹ *Western States Water*, November 5, 1993, Issue #1016.

²⁰ *Western States Water*, December 3, 1993, Issue #1020.

to the Council's position. However, a number of other changes were necessary before the Council could fully support the bill. The WSWC's position on the CWA is discussed further hereafter.

Drought

With the exception of parts of the Northwest, winter precipitation all but erased severe drought conditions (as measured by the Palmer Index) across the West in 1993. However, reservoir storage and ground water reserves have been depleted by years of drought. While some water supplies have recovered and water use restrictions have been eased or eliminated, many western water managers remained cautious. By the end of the water year on October 1, the U.S. Bureau of Reclamation reported that carry-over reservoir storage was good to excellent in most areas and that water deliveries should be adequate. Still, no single parameter can reflect the total water supply picture. Spring and summer streamflows are largely dependent on winter precipitation and snowpacks. WSWC staff continued to monitor and report on water supply conditions in member states. Further, staff served on an interagency steering committee preparing for a major western drought conference to be held in Portland, Oregon in May 1994.

Endangered Species Act

Reauthorization of the Endangered Species Act (ESA) has been pending in Congress for some time. Many of the Council's member states have expressed frustration with the Act's implementation. However, the uncertainty surrounding if and when significant legislative improvements might be made, and other considerations, led the Council to seek administrative means of promoting improvement. The Legal Committee decided to draft a discussion paper called "The Endangered Species Act: Opportunities for Improvement, Coordination, and Consultation Among Federal Entities and State Water Resource Managers under the Current Law." An initial draft was written and presented to Council members in preparation for the October 1993 Council meetings. Shortly thereafter a number of Council members provided staff with comments and the discussion paper was redrafted and again circulated to Council members. A number of comments were received on the second draft as well. A final version of the paper will be prepared in 1994. Its objective is to serve as the basis for discussion between state and federal interests to improve implementation of the ESA.

Federal Energy Regulatory Commission

Just prior to the Council's April 1993 meetings in Washington, D.C., Vice Chair Keith Higginson met with FERC officials to present a draft memorandum of agreement (MOA), designed to address a number of issues related to federal hydropower project licensing and state water rights administration. After FERC had had a chance to review the initial draft the MOA was presented to member state representatives at the July meetings. FERC did not respond until October, when John Clements, Deputy Director of the Office of Hydropower Licensing, met with Council members during meetings in Coeur d'Alene, Idaho. After many months of discussion and work on the

proposed MOA, Council members were deeply disappointed when Mr. Clements reported that FERC Chair Elizabeth Moler and FERC's General Counsel had rejected the draft MOA. Apparently FERC believes the MOA would establish a dual system of licensing jurisdiction that would illegally give states supremacy, contrary to the Federal Power Act. Further, Ms. Moler believes an MOA developed without the participation of all the stakeholders is not an appropriate vehicle for fundamental change. In response to a series of direct questions, Mr. Clements made it clear that Chair Moler was not disposed to act further on the MOA or address the underlying issues until Congress amends the Federal Power Act. With no apparent hope for any further dialogue, the meeting adjourned abruptly.

The Council wrote Chair Moler asking for a written response explaining her objections to the proposed MOA. She responded reiterating her position that there appeared to be no further room for discussion until Congress acted to change the law. Chair Moler's letter, dated November 2, stated: "After reviewing the draft MOA, I concluded it does not provide a sound basis for further discussions because the Commission lacks authority to carry out the type of agreement you propose.... The chief difficulty...is its inconsistency with California v. FERC.... The Council's proposal, if adopted, would effectively reverse the Court's ruling.... An MOA can certainly be an effective means for bettering relations between government agencies if they properly recognize each participants legal responsibilities and authority. Indeed, the Commission has MOAs with other federal and state agencies. However, these agreements are for the purpose of improving consultation and cooperation, and do not administratively reverse the law as written by Congress and interpreted by the courts." Still, Chair Moler offered, "I remain committed to establishing better relations with the states.... I recognize the vital role that water and water rights play in the West. I want to assure you the Commission will carry out its responsibilities with sensitivity to your concerns."

General Stream Adjudication Filing Fees

Ten member states joined in 1992 in an amicus brief supporting the state of Idaho's contention before the U.S. Supreme Court, that the United States should be required to pay filing fees in Idaho's general stream adjudication. However, in 1993, the U.S. Supreme Court, reversing the Idaho Supreme Court, held that the McCarran Amendment's waiver of sovereign immunity is not sufficient to subject the United States to the payment of filing fees as envisioned under the Idaho general stream adjudication statute, United States v. Idaho, No. 92-190 (May 3, 1993). The case was remanded for further proceedings consistent with the opinion.

The Idaho Supreme Court had held that the McCarran amendment expressed Congress' intent to subject the United States to all state court processes in general adjudication proceedings, including the payment of filing fees.²¹ On appeal, the United States contended that an appropriate construction of the McCarran amendment would require the United States to be subject to state substantive water law in general adjudica-

²¹ Western States Water, Issue #936, April 24, 1992.

tions, but not state procedural law (including filing fees). Idaho countered that the McCarran amendment's waiver of sovereign immunity applies to all facets of general adjudication proceedings, including the payment of filing fees.

The Supreme Court was unable to accept either party's contention. It found the United States' argument to be "weak" allowing "the government to argue for some special federal rule defeating established state-law rules governing pleading, discovery, and the admissibility of evidence at trial. We do not believe that the Congress intended to create such a legal no-man's land in enacting the McCarran amendment." Idaho's argument was rejected, the Court said, on the basis that "several of our cases exemplifying the rule of strict construction of a waiver of sovereign immunity...reject efforts to assess monetary liability against the United States for what are normal incidents of litigation between private parties." The Court found no such specific waiver in the McCarran amendment. It concluded, "While we therefore accept the proposition that the critical language of the...McCarran Amendment submits the United States generally to state adjective [procedural] law, as well as to state substantive law of water rights, we do not believe it subjects the United States to the payment of the sort of fees that Idaho sought to exact here."

Grazing Reform and State Water Rights

Council members watched with great interest federal efforts to reform programs governing grazing on public lands in the West. Major issues centered on grazing fees, size and control of grazing allotments, and environmental controls for grazed lands. An important sub-issue was the control of water rights issued in connection with grazing permits. When an effort was made to attach grazing reform legislation to appropriations for the Interior Department, western senators led a successful filibuster to prevent a vote on the bill. Interior Secretary Bruce Babbitt expressed his determination to revisit the grazing reform issue by way of consensus and negotiation.

Although the Council took no position with respect to the water rights language in the grazing reform legislation, Council members remained very interested in the progress of the debate. When Secretary Babbitt announced his intent to seek input on grazing reform issues, the Council determined to monitor developments and work with the Solicitor's Office in the Interior Department to draft water rights language to accompany grazing reform measures that would not be problematic to western state officials. At the close of the year, no redrafted version of the grazing reform proposal had yet been made available by Interior. A process that would lead to this end, however, was well underway.

Ground Water Recharge Demonstration Program

Work under the Council's cooperative agreement with the U.S. Bureau of Reclamation continued through 1993. Of note, in 1992, the Congress acted to extend the program and authorized increased funding to complete a number of deferred projects. In response, the Council and Reclamation extended their cooperative agreement through

September 1994. However, Commissioner Beard announced that Reclamation would not seek funding for the deferred projects. Therefore, the report will focus on those projects already completed or currently under construction. Only a few program projects remain to be visited. During 1993, Bureau and Council staff visited several recharge projects in the Phoenix area, as well as the Las Vegas Valley. While these are not program projects, the visits provided an opportunity to gather information useful for the required economic and institutional review.

Moreover, the study requires an evaluation of the economic feasibility of and the legal authority for using ground water recharge in water resource development projects. Notably, the Phoenix area recharge projects have the ability to utilize surplus waters delivered by the federal Central Arizona Project, while the Las Vegas Valley Water District is recharging part of its Lower Colorado River entitlement withdrawn from Lake Mead. The use of federal facilities and surface water supplies in conjunction with ground water recharge and banking are essential to meeting future water supply needs of these growing metropolitan areas. These projects also demonstrate the feasibility of recharging tens of thousands of acre-feet of water using federal and non-federal resources.

Council and Bureau staff also visited recharge projects near Bakersfield, California and conferred with staff of the California Department of Water Resources in Sacramento. California is the only state which provides a financial assistance program specifically for ground water recharge projects. California has a long history of recharge activities, and the visits provided an opportunity to compare the Bureau's program with that in California. Various entities in the Bakersfield area have participated in the Kern County water bank for a number of years, and water stored in the aquifer proved to be particularly valuable during California's six-year drought. However, the state of California has been unable to expand recharge activities in the area due to restrictions imposed by the Endangered Species Act.

In addition to the site visits, during 1993 Bureau and Council staff presented their findings in two professional papers designed to increase awareness regarding recharge opportunities. A draft report will be completed by June 1994, with the final report submitted to the Bureau of Reclamation in September 1994.

Safe Drinking Water Act

The Council passed a brief position statement on implementation of the Safe Drinking Water Act (SDWA) in October 1992. During 1993, some legislative proposals were introduced in Congress to reauthorize the SDWA. However, no significant legislative movement occurred. The Council monitored the debate, and made its resolution available to interested parties. As the SDWA reauthorization progresses, the Council will continue to be involved.

State Water Use Fees

State legislative and administrative agencies are faced with maintaining and expanding water resource related services in the face of state budget cuts and dwindling federal support. As federal and other financial resources become more and more scarce, many states are evaluating various potential fees related to water use. During 1993, WSWC staff drafted a questionnaire on state water use fees, which was revised in response to comments from members. The questionnaire was sent to members and other interested states. The results will be compiled in a report to be completed and distributed in 1994.

Water Conservation

Work continued through 1993 on a report to update information on water conservation programs in western states. Material was compiled from a questionnaire distributed to member states in 1992, and staff prepared a matrix summarizing state capacities. During 1993, work began on preparing state-by-state summaries. However, the work was delayed, given other priorities, and continues subject to limited time and resources.

Watershed Management

In addition to participating in the CWA debate, the Council continued efforts related to watershed management as a follow up to a series of WGA/WSWC workshops. The fourth workshop in this series was held in Newport Beach, California early in 1993. Further, planning and other preparations began for a fifth workshop, on improving watershed management, to be held in February 1994. Also, Council and WGA staff worked to prepare a summary of the Park City workshops for inclusion in a book on western water management being compiled by the American Bar Association's Section on Natural Resources, Energy, and Environmental Law. The book will be published in the summer of 1994.

Western Water Policy Review Commission

Shortly before President Bush left office in 1992, he made a number of appointments to the Western Water Policy Review Commission, created by the Congress in 1992. The Commission is to advise the Secretary of Interior with respect to a comprehensive review of federal activities in nineteen western states related to the allocation and use of surface and ground water. The Secretary is to present his findings and recommendations to the President and the Congress. President Bush appointed Tom Sansonetti, former Solicitor of the Department of Interior, as chair of the 22-member commission. At Mr. Sansonetti's call, a number of those appointed met during 1993. However, the new Administration under President Clinton challenged the prior appointments and stated President Clinton would name his own appointees. Meeting with members at the October 1993 quarterly meetings, Assistant Interior Secretary for Water and Science, Betsy Ann Rieke, affirmed the Administration's commitment to the task of the

Commission. However, she noted the present Administration's concern that there be an appropriate balance of background, perspective, and experience. At that time, she announced that the White House was reviewing potential candidates, and expected a revised Commission to be named soon. However, no new appointments were made during 1993.

Wilderness Area Reserved Water Rights

In December 1993, the Departments of Justice, Interior, and Agriculture announced their intention to reexamine the decision of the Reagan and Bush administrations not to file claims for water rights in certain Congressionally designated wilderness areas. The legal issue presented was primarily the interpretation to be given certain provisions of the Wilderness Act, and related federal legislation. The Departments sought input on the suspension of a previous Interior Solicitor's opinion which found that no reserved rights were created by the designation of wilderness areas. Comment was sought not only on legal issues, but also on related practical and policy issues. Council members were interested in this issue, and intend to comment on the proposal in 1994.

RESOLUTIONS AND POSITIONS

Under the Council's rules of organization, its functions include the investigation and review of water-related matters of interest to the western states. Moreover, from time to time, the Council adopts express policy positions and resolutions regarding proposed federal laws, rules and regulations and other matters affecting the planning, conservation, development, management and protection of western water resources.

CLEAN WATER ACT REAUTHORIZATION

While the Congress continued to work on the Clean Water Act (CWA) reauthorization in 1993, efforts have failed to produce a new law. The Council actively participated in the congressional debate. In this regard, Council members determined it would be helpful to restate its 1991 position on the CWA. With that in mind, the following position statement was adopted. It contains a revised version of the Council's views on CWA funding, non-point source pollution control, water quality standards, effluent dominated waters/water reuse, federal/western state issues, wetlands, ground water, stormwater, antibacksliding, clean lakes, and CWA Section 401 compliance. Also, new sections were added on pollution prevention, watershed management, trans-border areas, and water quality controls on tribal lands.

With respect to wetlands management, the Clinton Administration released a new wetlands policy, which represented progress in many areas of concern to the states. Also, Senator Baucus and others introduced S. 1340, to amend CWA Section 404. The bill contained ideas from the Administration's proposal. It will likely be folded into a comprehensive CWA reauthorization bill in 1994. As the wetlands debate progresses, the Council will continue to make its views known.

Watershed management has become another important area of emphasis with respect to the CWA reauthorization. A section was added to the Council's CWA resolution on this topic. Many Council members note that much has been accomplished over a period of many years with respect to watershed management. Renewed interest in the subject, however, will provide the basis for further enhancements in watershed programs.

The following was adopted by the Western States Water Council in 1993.

POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
REAUTHORIZATION OF THE CLEAN WATER ACT
July 16, 1993

BACKGROUND

Clean water is essential to the quality of life and health of the citizens of the nation. This is particularly true in the arid West, where water is a scarce and precious resource that must be managed considering all social, environmental, and economic values and needs. Because of their unique understanding of these needs, states are best able to manage the water within their borders. Much progress has occurred under the Clean Water Act (CWA) toward the goal of controlling water pollution. Western states have made great strides in integrating water quality and water quantity decision-making and have developed legislative and planning strategies for promoting these goals as well as promoting water conservation and water reuse.

The CWA is now being considered in Congress for reauthorization. The outcome of the debate will affect the ability of state, federal, local, and tribal governments to protect water quality, and could affect the ability of state governments to administer water rights. The Western States Water Council encourages the reauthorization of the CWA based upon the following principles. As issues become more clearly defined, the council will provide further comments in future position statements.

CROSSCUTTING ISSUES

There are two issues of importance, pollution prevention and watershed management, which deserve special consideration during the CWA reauthorization process, because they potentially impact all programs authorized by the CWA.

POLLUTION PREVENTION

Pollution prevention has recently received a great deal of attention, but needs to be given more emphasis. The concept of pollution prevention cuts across all CWA programs by offering a means of avoiding complex and costly "command and control" approaches to water pollution control and clean up.

Expanded funding should be provided to states for development of pollution prevention programs, and incentives such as greater flexibility in using existing grants should be provided to states with strong pollution prevention programs.

WATERSHED MANAGEMENT

The watershed approach offers great opportunities. It allows focus on the most critical problems that affect the watershed while eliminating duplication and inconsistency between regulatory entities. It allows public involvement to be focused on a defined area where results can be measured. It has the potential to foster cooperative problem solving where the important players can help each other solve mutual problems in a way that can result in an improved environment at less cost. It provides a feasible means of developing an "ecosystem approach" relative to the protection of water quality and related values. To encourage these benefits the CWA should embody the following principles:

1. States should be encouraged, but not mandated, to utilize a watershed approach for water quality and resources management.

2. Any absolute mandate contained in the CWA should be limited to water quality concerns.

3. While states should be allowed to craft their watershed management to meet their needs, the goals and the scope of such programs must be clearly defined. This definition is essential since "watershed management" has many different meanings to different people. In general, basin-specific goals and programs should be selected and prioritized on the basis of risk to quality-of-life, human health, and ecological concerns.

4. Watershed management should emphasize performance, not planning. A uniform set of best management practices should not be mandated. States should be allowed to identify appropriate individual strategies to be applied within, and for, a given basin.

5. There should be no interference with the rights of the states to manage allocation of their water supplies.

6. The internal structure of state government should not be mandated. States should be allowed to use existing authorities and programs or set up advisory committees and watershed councils to meet their needs as they understand them.

7. Flexibility should be provided in both the procedural and substantive requirements of clean water programs to meet the goals of improving water quality and the environment as soon as possible.

8. EPA should provide technical, financial, and research assistance. It should not mandate any particular approach or try to mandate its preferred methods.

9. Federal funding should be made available to the states to support watershed management. The funding should not be tied to following processes specified by EPA. There should be sufficient flexibility in funding to allow states to deal with watershed problems according to the priorities they have identified.

FUNDING

1. The minimum funding at the national level for the state revolving fund (SRF) should be \$2.4 billion annually for at least five additional years beyond the current authorization to meet the original funding commitment of the CWA. Funding levels must be restored in response to changes from the "stimulus package" which caused a reduction of funding to unacceptable levels. This funding is also needed to provide adequate assistance for new needs created by the 1987 reauthorization, such as controls on non-point source pollution, stormwater, and toxics. Adequate funding should also be provided to meet the water quality needs of small communities and rural areas. A grant program or combination loan/grant program with loan terms greater than 20 years should be implemented through new funding and/or in a manner that does not deplete SRF assets.

2. CWA Section 106 funding should be increased to a level that enables states to maintain effective water quality planning, ambient monitoring, permitting, and compliance. Funds available to states under CWA Sections 104, 319, and any new funding for pollution prevention and watershed management should be combined into Section 106, and a single grant should be awarded to each state. States should then have flexibility in targeting the expenditure of funds.

3. For any new federally mandated programs, new federal funds should be provided. The Council opposes any increased matching requirements for federal funds.

4. In providing SRF financial assistance to municipalities, federal requirements other than those specified by CWA Title VI should not be imposed. Once federal capitalization of the program ceases, EPA oversight should be limited to ensuring that the SRF is maintained. Federal crosscutting laws associated with the SRF program should be eliminated. Costs associated with the purchase of land, easements, and rights of way should be eligible for SRF funding.

5. The 4% limitation on SRF administrative costs should be based upon the authorized level rather than the appropriated capitalization grant amount, and provisions should be made for a minimum amount of federal assistance per state for administrative costs.

6. Separate funding and administrative requirements should be provided for any drinking water state revolving fund program. Money allocated for the drinking water fund should be from a source separate from the wastewater SRF.

7. Alternatives to typical "command and control" programs can be promoted through creative funding incentives. The elimination of "cross-cutter" requirements for states with 90% of point sources meeting secondary treatment or for states with no or minimal National Pollution Discharge Elimination System (NPDES) permit backlogs are two examples.

NON-POINT SOURCE POLLUTION CONTROL

1. Maximum flexibility should be provided to states to effectively implement non-point source (NPS) pollution control programs. NPS funding should enable states to balance program elements and focus, as needed, on technology development and transfer, monitoring, assessment, demonstrations, local community technical assistance, and institutionalizing non-traditional water quality management programs.

2. NPS plans, demonstration projects, and program development as envisioned in the 1987 CWA amendments are not yet complete. To produce needed results, states must have the ability to use a significant portion of their CWA Section 319 funds to establish and maintain long term, consistent programs as envisioned by the 1987 amendments.

3. A provision should be added to the CWA to ensure that Section 319(k), requiring federal agency activities to comply with state NPS management plans, is implemented.

4. EPA should not define national, mandatory management practices to control agricultural runoff and other forms of NPS pollution. States, however, should be required to control such pollution where it causes violation of water quality standards. Both the management practices and the specific waters affected should be defined by the states. A voluntary approach should be acceptable if the states have authority to enforce mandatory requirements where water quality standards violations occur. The irrigation return flow exemption from the NPDES should not be rescinded.

5. Federal agencies should be required to develop incentives for implementing NPS controls on federal lands and for federally supported activities. For example, support payments could be increased to farmers with effective conservation plans and bonus acreage awarded to lumber companies with successfully implemented NPS plans.

WATER QUALITY STANDARDS

1. The states must have the primary role in establishing and interpreting water quality standards that meet the intent of the CWA. EPA should be required to provide necessary criteria development guidance to states in a clear and timely manner.

2. The CWA should clearly acknowledge that municipal stormwater systems are to implement best management practices to the maximum extent practicable with the goal of meeting water quality standards.

3. The various water quality assessment requirements should be integrated into a single, streamlined assessment under CWA Section 305(b). The assessment requirements should not be overly burdensome and the 305(b) assessment should be prepared every three to five years rather than every two years.

4. The states should continue to review and revise water quality standards on a triennial basis. EPA should continue to be responsible for approving adopted state water quality standards to assure interstate compatibility and compliance. However, the application of water quality standards in support of state water quality protection goals must continue to be the prerogative of the states.

5. States must be allowed to establish water quality standards flexible enough to account for natural variations in water quality and background levels.

6. Not all waters should be classified as fishable, swimmable. For example, the CWA should be amended to recognize the unique nature of constructed drains and canals and allow water quality standards to be set that recognize the benefits provided by these waterways (many of which would not exist without the agricultural activity) and the nature of agricultural operations and their ability to reduce pollutants from non-point sources. In such cases, protection of receiving waters for designated beneficial uses should be assured. Also, there are waters which historically, for natural reasons and causes, cannot meet fishable/swimmable criteria.

EFFLUENT DOMINATED WATERS/WATER REUSE

1. Natural channels are often needed to transport reclaimed water to an area of reuse. Reuse of wastewater is an increasingly important source of water in the West. Effluent dominated waters also support riparian habitat. In the CWA reauthorization, Congress should recognize the interrelationship of such waters and water quality standards, riparian habitat, and water rights issues, and should develop policies that support the objectives of state and federal law, by allowing establishment of appropriate water quality standards, based on intended uses, for natural conveyance systems and man-made waterways that discharge flows to waters of the United States.

2. A policy statement should be added to the CWA such as: It is the policy of Congress to allow states to encourage the reuse of treated wastewater, as a component of water quality control as well as comprehensive water management.

3. The CWA reauthorization should allow the permitting authority maximum flexibility in establishing requirements pertaining to effluent dominated waters and ephemeral and intermittent streams based upon net environmental benefit under applicable law. States should be encouraged to adopt water quality standards for reclamation projects to control toxicity, nutrients, and other water quality parameters to provide for reasonable protection of designated water uses. EPA should assist with research to establish safe effluent discharge parameter levels for human contact water uses.

FEDERAL/WESTERN STATE ISSUES

1. Water pollution control programs are administered most efficiently and effectively at the state level. Delegated state programs should be approved if they meet the goals, objectives, and intent of federal statutes. They should not be less stringent than, but need not be identical to, EPA regulations, policies, or procedures.

2. CWA Sections 510(2) and 101(g) are clear expressions of Congressional intent regarding deference to the states' role to allocate quantities of water. This fundamental principle of deference, which is manifest in many other federal environmental statutes, must not be weakened in the context of the CWA reauthorization.

3. Virtually all western states have in place mechanisms to establish and maintain instream flows. Statutory requirements in the CWA for maintenance of such flows would affect water rights and impact water management in the West. No such requirements, either explicit or implicit, should be included in the CWA.

4. Additional federal research and technical assistance are needed on the following topics important to western states: turbidity, suspended solids, physical integrity of the water body, biotic methods applicable to ephemeral and intermittent waters, definition and regulation of ephemeral and intermittent waters, federal land and facility compliance with state water quality standards, mining activities as they relate to storm water, and turbidity.

5. To maintain an appropriate federal/state partnership, it is essential that state officials have a meaningful voice in EPA policy development, particularly in the early stages of such development before irreversible momentum leads toward prescriptive programs. State participation in EPA policy making should not be subject to the Federal Advisory Committee Act or the Administrative Procedures Act.

WETLANDS

1. The existing CWA Section 404 regulatory program must be improved. Sole authority for administration of the program should be vested in one agency. The program should encourage and enable states to assume full or partial permitting authority. Financial support should be provided to states that assume the federal program. The program should include research into and development of techniques to assess wetlands' functions and values.

2. The continuing loss and degradation of the nation's wetlands base is unacceptable. A no-net-loss policy is an important step toward reversing that trend. Such a policy, however, must provide flexibility and be implemented at different rates and in different ways in various regions of the country to reflect regional wetlands needs, conditions, and types.

3. National wetlands policy should lend itself to implementation through state, regional, and local plans and programs, and recognize individual state and local planning and regulatory efforts to preserve and protect wetlands.

4. The diverse needs and types of wetlands nationwide, and concern for human and economic impacts, will make it difficult to achieve a no-net-loss goal. To achieve such a goal, a broad range of non-regulatory programs (such as subsidies and tax incentives, public acquisition, conservation easements and leases, and other non-punitive approaches) and regulatory programs will be required.

GROUND WATER

1. A national regulatory program for ground water would be inappropriate and should not be part of the CWA reauthorization. Ground water protection and management are primarily the responsibilities of state and local governments. Such governments must have the flexibility to develop and continue existing programs appropriate for their own circumstances, including strategies and mechanisms appropriate to assure ground water quality protection and preserve their ability to allocate, manage, and protect rights to use ground water.

2. The federal role in ground water management should be to provide technical assistance, gather data, and promote research to support state programs. Also, any federal funds that are provided for ground water protection should be made available to support all phases of program development and implementation of state ground water quality programs, not just program development.

3. Federal agencies should be required to conduct their activities in accordance with, and without duplication of, state and local ground water protection programs.

4. EPA's Comprehensive State Groundwater Protection Program strategy is an acceptable approach to ground water protection to the extent that it is carried out on a voluntary basis. This approach provides flexibility to address the most pressing ground water problems within a given ground water basin.

STORMWATER

1. Existing requirements for NPDES permits applicable to stormwater discharges are often unrealistic and may, to a large extent, be unachievable, especially in arid areas. The CWA should clarify previous congressional intent that municipal stormwater dischargers are to implement best management practices and should not necessarily be subject to end-of-pipe treatment standards. Best management practices shall be developed through public participation and be designed to ensure that control of stormwater discharge is consistent with regulatory implementation of mandated stream standards. State regulatory agencies are encouraged to establish additional monitoring and performance criteria to assure meeting goals of watershed management programs.

2. The statutory deadlines for implementation of the stormwater program should be revised to establish realistic deadlines for permit issuance and to accommodate phased implementation of stormwater regulatory programs.

3. Recognition should be made of the tremendous responsibility placed upon states by federal stormwater regulations. Significant additional federal resources should be made available to avoid major cuts in other programs.

4. Stormwater pollution controls may include small ephemeral ponds and injection wells as part of on-site retention requirements which could result in significant pollution of ground water. Impact of these requirements may adversely affect the overall water management process. States need the flexibility to design optimum water quality/water quantity interfaces.

ANTI-BACKSLIDING

1. The CWA should be revised to clarify the application of anti-backsliding. EPA's inaction on guidance or regulations regarding anti-backsliding has been detrimental to the permitting process, resulting in delaying permits or causing less-restrictive permits to be written.

2. The CWA should be amended to allow removal or modification of effluent limits in cases where the limit is determined to be unnecessary because of errors in calculation, publication of new scientifically valid information, or determination that the substance being limited is not present in the discharge.

CLEAN LAKES

1. CWA Section 314 funding should be increased to a level that recognizes the key role the Clean Lakes Program plays in managing the nation's lakes for maximum beneficial use and enjoyment.

2. Appropriations should be sufficient to support meaningful efforts to continue assessment and identification/implementation of methods and procedures to restore lake quality.

COMPLIANCE WITH STATE LAW UNDER CWA SECTION 401

States have primary jurisdiction over water quantity issues and should retain primary jurisdiction under the CWA over integration of water quantity and water quality considerations through the water quality certification process set forth under Section 401. The CWA reauthorization should include an amendment to Section 401 that would ensure that any federally licensed activity that results in an alteration or hydrological modification of surface waters must be preceded by a Section 401 certification that ensures compliance with all provisions of state law.

TRANS-BORDER AREAS

EPA needs the authority, responsibility and resources to deal with water quality issues in trans-border areas. Also, mechanisms should exist for better coordination and participation between EPA, the states, other agencies, and our neighboring nations.

WATER QUALITY CONTROLS ON TRIBAL LANDS

In order to prevent voids in regulation, state water quality standards should be effective on Indian lands until replacement standards have been adopted by tribal governments which have been designated as states, or promulgated by EPA.

BUDGET AND FINANCE

At the quarterly meeting held April 23, in Washington, D.C., the Executive Committee approved a budget for FY92/93 of \$377,728.00. A previously approved dues schedule calls for a FY92/93 assessment of \$21,000 per state.

The audit report for FY92/93, prepared by the firm of Hansen, Barnett and Maxwell, was presented to the Executive Committee by the Executive Director at the quarterly meeting on October 8, in Coeur d'Alene, Idaho. The report was accepted unanimously as written.

The accounting policies of the Western States Water Council conform to generally accepted accounting principles as applicable to governmental units. The Council utilizes the modified accrual basis of accounting.

The auditor's report and the financial statement are reflected on the following pages.

HANSEN, BARNETT & MAXWELL

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REPORT OF INDEPENDENT ACCOUNTANTS

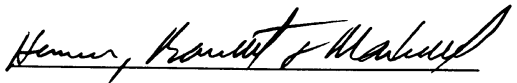
To the Executive Committee
Western States Water Council

We have audited the accompanying combined balance sheet of Western States Water Council as of June 30, 1993, and the related general fund statement of revenues and expenditures and changes in fund balance - budget and actual for the year then ended. These financial statements are the responsibility of the Council's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Western States Water Council as of June 30, 1993, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

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



July 22, 1993

**WESTERN STATES WATER COUNCIL
COMBINED BALANCE SHEET
JUNE 30, 1993**

ASSETS

	<u>Account Groups</u>			<u>Totals</u>	
	<u>General</u>	<u>General</u>	<u>General</u>	<u>(Memorandum Only)</u>	
	<u>Fund</u>	<u>Fixed</u>	<u>Long-Term</u>	<u>June 30,</u>	<u>June 30,</u>
		<u>Assets</u>	<u>Debt</u>	<u>1993</u>	<u>1992</u>
Assets					
Cash-Note 2	\$ 258,696	\$ -	\$ -	\$ 258,696	\$ 236,922
Account receivable - government agreement - Note 6	2,344	-	-	2,344	11,530
Prepaid expenditures	1,549	-	-	1,549	1,549
Deposits	1,649	-	-	1,649	1,649
General fixed assets	-	71,577	-	71,577	72,507
Other Debits					
Amount to be provided for payment of long-term debt	-	-	431	431	1,956
Amount to be provided for payment of compensated absence	-	-	<u>26,163</u>	<u>26,163</u>	<u>28,628</u>
Total Asset	<u>\$ 264,238</u>	<u>\$ 71,577</u>	<u>\$ 26,594</u>	<u>\$ 362,409</u>	<u>\$ 354,741</u>

LIABILITIES AND EQUITY

Liabilities					
Accounts payable	\$ -	\$ -	\$ -	\$ -	\$ -
Payroll taxes payable	290	-	-	290	236
Obligations under capital lease Note 3	-	-	431	431	1,956
Obligations for compensated absences - Note 5	-	-	<u>26,163</u>	<u>26,163</u>	<u>28,628</u>
Total Liabilities	<u>290</u>	<u>-</u>	<u>26,594</u>	<u>26,884</u>	<u>30,820</u>
Equity					
Investment in general fixed assets	-	71,577	-	71,577	72,507
Designated fund balance - equipment replacement	20,951	-	-	20,951	13,719
Undesignated fund balance	<u>263,997</u>	<u>-</u>	<u>-</u>	<u>242,997</u>	<u>237,695</u>
Total Equity	<u>263,948</u>	<u>71,577</u>	<u>-</u>	<u>335,525</u>	<u>323,921</u>
Total Liabilities and Equity	<u>\$ 264,238</u>	<u>\$ 71,577</u>	<u>\$ 25,594</u>	<u>\$ 362,409</u>	<u>\$ 354,741</u>

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

**WESTERN STATES WATER COUNCIL
GENERAL FUND
STATEMENT OF REVENUES AND EXPENDITURES AND
CHANGES IN UFND BALANCE - BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 1993**

	Budget 1993	Actual 1993	Variance Favorable (Unfavorable) 1993	Actual 1992 (For Comparison Only)
RETURN				
Members states' assessments	\$ 342,600	\$ 342,600	\$ -	\$ 352,350
Bureau of Reclamations contract	-	14,719	14,719	11,530
Interest income	-	14,418	14,481	16,242
Total Revenues	<u>342,600</u>	<u>371,737</u>	<u>29,137</u>	<u>380,122</u>
EXPENDITURES				
Current				
Salaries	192,500	190,337	2,163	186,103
Travel	38,000	29,081	8,919	34,716
Payroll taxes and employee benefits	64,000	65,794	(1,794)	62,114
Printing and reproduction	10,500	9,186	1,314	12,358
Rent	22,500	22,799	(299)	20,864
Freight and postage	10,000	9,536	464	8,703
Telephone	4,500	5,132	(632)	4,400
Utilities	3,000	2,540	460	1,971
Maintenance contracts	1,500	608	892	1,400
Office supplies	6,500	5,488	1,012	5,273
Reports and publications	4,600	7,257	(2,657)	4,423
Meetings and arrangements	4,000	(339)	4,339	1,352
Accounting	2,000	2,100	(100)	2,000
Insurance	1,600	992	608	1,011
Contingencies	4,500	5,461	(961)	4,175
Interest	-	254	(254)	527
Bank charges	-	94	(94)	-
Capital outlay	1,500	1,358	142	5,268
Debt servoce - Note 3	<u>6,528</u>	<u>1,525</u>	<u>5,003</u>	<u>1,253</u>
Total Expenditures	<u>377,728</u>	<u>359,203</u>	<u>18,525</u>	<u>357,911</u>
Excess of Revenues Over Expenditures	(35,128)	12,534	47,662	22,211
Fund Balance -				
Beginning of Year - Note 6	<u>251,414</u>	<u>251,414</u>	-	<u>229,203</u>
Fund Balance - End of Year	<u>\$ 216,286</u>	<u>\$ 263,948</u>	<u>\$ 47,662</u>	<u>\$ 251,414</u>

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

**WESTERN STATES WATER COUNCIL
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 1993**

NOTE 1—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Western States Water Council was formed in 1965 as a cooperative endeavor among States in the Western United States. Its purpose is to coordinate programs which will lead to integrated development of water resources by state, federal and other agencies in the region. The Council receives funding through assessments of member states. Each member state is represented on the Council's Executive Committee which comprises the administrative body.

The accounting policies of the Western States Water Council conform to generally accepted accounting principles as applicable to governmental units. The following is a summary of the significant policies:

The Reporting Entity

The Western States Water Council is an independent reporting entity and is not a component unit of any other government. The Council's Executive Committee is the governing authority. This determination has been made using the following criteria: the Executive Committee establishes Council policy, approves the annual budget, and appoints those responsible for administrative and fiscal activities.

Fund Accounting

The accounts of the Council are organized on the basis of funds and account groups, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures. Resources are allocated to and accounted for in the fund based upon the purposes for which they are to be spent and the means by which spending activities are controlled.

Governmental Fund

The General Fund is used to account for all financial resources of the Council not accounted for by a separate, specialized fund.

Account Groups

Account Groups (not "funds") are concerned only with the measurement of financial position. They are not involved with measurement of results of operations. There are two account groups, as follows:

NOTE 1—(CONTINUED)

The General Fixed Assets Account Group is used to record the cost of the capital assets owned, or acquired through capital lease obligations, by the Council, and to aid in maintaining physical control over these assets. Cost of assets acquired through a capital lease is the fair market value at the lease inception date. Purchased general fixed assets are recorded as expenditures in the governmental fund at the time of purchase. These assets are then concurrently recorded, at cost, in the General Fixed Assets Account Group.

The General Long-Term Debt Account Group is used to record long-term liabilities expected to be financed from the governmental fund.

Basis of Accounting

The modified accrual basis of accounting, under which expenditures, other than interest on long-term debt, are recorded when the liability is incurred and revenues are recorded when received in cash unless susceptible to accrual, (i.e. measurable and available to finance the Council's operations, or of a material amount and not received at the normal time of receipt), is followed for the General Fund.

Totals Column on Combined Balance Sheet

The totals column on the Combined Balance Sheet is captioned "Memorandum Only" to indicate that it is presented only to facilitate financial analysis. Data in this column does not present financial position, results of operation, or changes in financial position in conformity with generally accepted accounting principles. Neither is such data comparable to a consolidation.

NOTE 2—CASH

The Council's major cash funds were held in the Utah Public Treasurer's Investment Fund during the years ended June 30, 1993 and 1992. Deposits and withdrawals may be made at any time and interest payments are added to the investment balance monthly. The balance in the Investment Fund at June 30, 1993 and 1992, was \$211,363 and \$217,649, respectively.

During the fiscal year ended June 30, 1991, the Council established an office equipment replacement fund. This fund will be used to purchase new equipment as it is needed. Deposits into this fund are made monthly in the amount of \$544. The fund is also held by the Utah Public Treasurer's Office and will accrue interest at the same rate as the Investment Fund. The balance in the Equipment Replacement Fund at June 30, 1993 and 1992 was \$20,951 and \$13,719 respectively.

NOTE 3—LEASE COMMITMENTS

The Council entered into a new lease agreement for its office location on February 12, 1991. The term of the lease is 3 years. Effective monthly payments are currently \$1,869.

The Council entered into a capital lease for a printer on October 2, 1990. The printer is included in the General Fixed Assets Account at the original cost of \$4,000. The lease term is three years with monthly payments of \$148.32. Interest expense on the capital leases for the years ended June 30, 1993 and 1992 was \$254 and \$527, respectively.

The following is a schedule by years of future minimum lease payments at June 30, 1993:

	<u>Capital Lease</u>	<u>Operating Lease</u>
1994	\$ 445	<u>\$16,821</u>
Less: Amount representing interest	<u>(14)</u>	
Present value of minimum lease payments	<u>\$ 431</u>	

NOTE 4—RETIREMENT PLAN

The Council has a defined contribution retirement plan that covers substantially all of its employees. To be a member of the Plan the employee must have completed 12 months or 1,000 hours of service in a 12 month period. Vesting accumulates at a rate of 10% a year, until the member is fully vested after 10 years of service.

The Council contributes to the Plan an amount equal to 12% of each plan member's gross wages plus an additional 3% of each member's gross wages in excess of the maximum social security taxable wage base, less the total of all amounts to be reallocated during the taxable year by reason of recoveries attributable to contributions arising out of termination of employment of members of the Plan prior to full vesting. The total contribution for the years ended June 30, 1993 and 1992, was \$23,799 and \$21,775, respectively.

NOTE 5—COMPENSATED ABSENCES

Employees of the Western States Water Council are entitled to compensated absences in the form of paid vacation and paid sick leave. According to policy, the vacation pay accrues at a rate of 1.25 days per full month of service rendered. The number of unused vacation days, up to 40, carries forward to the be-

NOTE 5-(CONTINUED)

ning of the next calendar year. Employees also accumulate sick days at a rate of 1.25 days per month. The unused sick days accumulate without limit, but ordinarily do not vest. However, if an employee meets the retirement requirements of State of Utah employees, the employee's accumulated sick days vest at 25 percent. Currently one employee of the Council meets the requirements for this 25 percent vesting.

The Obligation for Compensated Absences has been classified as part of the General Long - Term Debt Account Group because presently the obligation is not expected to be paid in the current year.

NOTE 6—PRIOR PERIOD ADJUSTMENT

The Council entered into an agreement with the Bureau of Reclamation to complete a study of the groundwater recharge in the western states. This agreement became effective and covered any expenses incurred as of January 30, 1992. As of June 30,1992, the Council had incurred \$11,530 in expenses related to this agreement. A prior period adjustment has been made to accrue the receivable due from the Bureau of Reclamation and recognize the revenue in the same period the expenses were incurred. The equity has been restated to reflect the prior period adjustment as follows:

Undesignated Fund Balance - June 30, 1992	\$226,165
Prior period adjustment	<u>11,530</u>
Undesignated Fund Balance - Restated	<u>\$237,695</u>

**WESTERN STATES WATER COUNCIL
SCHEDULE OF CHANGES IN GENERAL FIXED ASSETS
FOR THE YEAR ENDED JUNE 30, 1993**

	<u>1993</u>
Investment in General Fixed Assets - June 30, 1992	\$72,507
Office equipment additions	1,703
Office equipment retirements	<u>(2,633)</u>
Investment in General Fixed Assets - June 30, 1993	<u>\$71,577</u>

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REPORT OF INDEPENDENT ACCOUNTANTS ON INTERNAL CONTROL STRUCTURE RELATED MATTERS NOTED IN A FINANCIAL STATEMENT AUDIT CONDUCTED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Executive Committee
Western States Water Council

We have audited the financial statements of Western States Water Council for the year ended June 30, 1993, and have issued our report thereon dated July 22, 1993.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Western States Water Council for the year ended June 30, 1993, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

The management of Western States Water Council is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

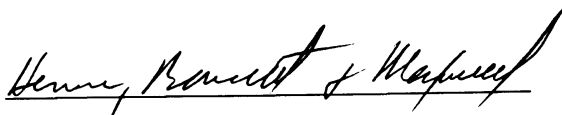
For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories.

- | | |
|-----------------------|---------------|
| -Cash | -Equity |
| -Prepaid Expenditures | -Revenue |
| -General Fixed Assets | -Expenditures |
| -Liabilities | |

For all of the control categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

This report is intended for the information of the executive committee and management. This restriction is not intended to limit the distribution of this report, which is a matter of public record.



July 22, 1993

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REPORT OF INDEPENDENT ACCOUNTANTS ON COMPLIANCE WITH LAWS AND REGULATIONS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS ISSUED BY THE GAO

To the Executive Committee
Western States Water Council

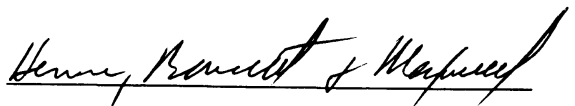
We have audited the financial statements of Western States Water Council as of and for the year ended June 30, 1993.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws, regulations, contracts, and grants applicable to Western States Water Council is the responsibility of the Council's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the Council's compliance with certain provisions of laws, regulations, contracts, and grants. However, it should be noted that our objective was not to provide an opinion on overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, Western States Water Council complied, in all material respects, with the provisions referred to in the preceding paragraph. With respect to items not tested, nothing came to our attention that caused us to believe that Western States Water Council had not complied, in all material respects, with those provisions.

This report is intended for the information of the executive committee and management. This restriction is not intended to limit the distribution of this report, which is a matter of public record.



July 22, 1993

EXECUTIVE COMMITTEE MEMBERS

David N. Kennedy - California - Chair

Ric Davidge - Alaska

Rita Pearson - Arizona

Larry Linser (Alt.) - Arizona

Daries (Chuck) Lile - Colorado

Keith W. Ahue - Hawaii

R. Keith Higginson - Idaho

Vice Chair

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Roland Westergard - Nevada

Eluid L. Martinez - New Mexico

Dave Sprynczynatyk - No. Dakota

Martha Pagel - Oregon

Robert E. Roberts - South Dakota

Reese Peck (Alt.) - South Dakota

John T. Montford - Texas

Charles Jenness (Alt.) - Texas

D. Larry Anderson - Utah

Hedia Adelsman - Washington

Gordon W. Fassett - Wyoming



Front Row: Dave Kennedy, Martha Pagel, Jeff Fassett, Hedia Adelsman, and Roland Westergard

Back Row: Keith Higginson, Ric Davidge, Chuck Lile, Larry Linser, Gary Fritz, and Larry Anderson

Management Subcommittee

David N. Kennedy - California - Chair
R. Keith Higginson - Idaho D. Larry Anderson - Utah
Vice-Chair Secretary/Treasurer
Roland D. Westergard - Nevada D. Craig Bell
Past Chair Executive Director



Front Row: D. Craig Bell, David N. Kennedy, Roland D. Westergard
Back Row: R. Keith Higginson and D. Larry Anderson

WSWC Water Policy Seminar Subcommittee

David N. Kennedy - California - Chair
Ric Davidge - Alaska Steve Sanders - Oregon
R. Keith Higginson - Idaho Dee C. Hansen - Utah
Roland D. Westergard - Nevada Hedia Adelsman - Washington
Francis Schwindt - North Dakota Gordon W. Fassett - Wyoming

WGA/WSWC Steering Group/National Water Policy Subcommittee

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David Kennedy - California D. Larry Anderson - Utah
J. David Holm - Colorado Dee C. Hansen - Utah
R. Keith Higginson - Idaho Hedia Adelsman - Washington
Gary Fritz - Montana Gordon W. Fassett - Wyoming
Peter Morros - Nevada

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Michael Brophy - Arizona

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Daries (Chuck) Lile - Colorado

R. Keith Higginson - Idaho

Donald MacIntyre - Montana

Harley Harris (Alt.) - Montana

Roland D. Westergard - Nevada

Charles DuMars - New Mexico

Richard A. Simms (Alt.) - New Mexico

Julie Krenz - North Dakota

John Hatch - South Dakota

Vice-Chair

John Guhin (Alt.) - South Dakota

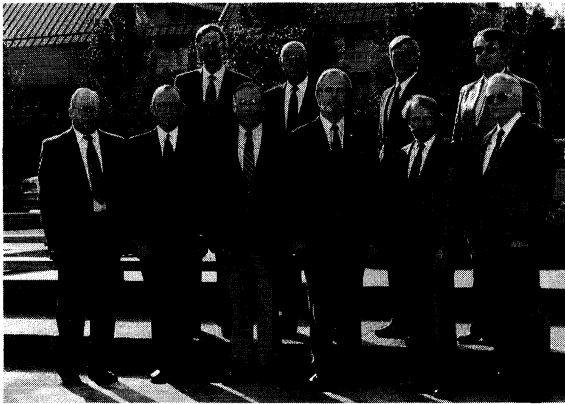
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Fred N. Pfeiffer (Alt.) - Texas

Thorpe A. Waddingham - Utah

Tom McDonald - Washington

Myron Goodson - Wyoming



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Ric Davidge, Steve Sanders, and Roland Westergard
Back Row: John Hatch, Keith Higginson, Fred Pfeiffer, and
Chuck Lile

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Ric Davidge - Alaska

Harley Harris - Montana

Charles DuMars - New Mexico

Eluid L. Martinez - New Mexico

Richard A. Simms - New Mexico

Steve Sanders - Oregon

John Hatch - South Dakota

Gordon W. Fassett - Wyoming

Federal Reserved Water Rights Subcommittee

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Harley Harris - Montana

Charles DuMars - New Mexico

Eluid L. Martinez - New Mexico

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Steve Sanders - Oregon

John Hatch - South Dakota

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Richard A. Simms - New Mexico

Michael Brophy - Arizona

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Richard A. Simms - New Mexico

Donald MacIntyre - Montana

John Guhin - South Dakota

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Gary Fritz - Montana	D. Larry Anderson - Utah
Thomas E. Cahill - Nevada	Hedia Adelsman - Washington



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Back Row: Wayne Haas (Alt.), Dee Hansen, Larry Linser, Gary Fritz, and Larry Anderson

Ground Water Recharge Study Subcommittee

D. Larry Anderson - Utah - Chair

C. Laurence Linser - Arizona	John Hatch - South Dakota
R. Keith Higginson - Idaho	Hedia Adelsman - Washington
Joseph E. Dini, Jr. - Nevada	

Drought Subcommittee

Ric Davidge - Alaska	Martha Pagel - Oregon
David N. Kennedy - California	D. Larry Anderson - Utah
R. Keith Higginson - Idaho	Gordon W. Fassett - Wyoming
Peter Morros - Nevada	

FERC Subcommittee

Gary Fritz - Chair - Montana

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Brent Petrie - Alaska	Hedia Adelsman - Washington

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Vice-Chair
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Edward C. Anton (Alt.) - California
David G. Kelley - California
J. David Holm - Colorado
Joe Nagel - Idaho
Steve Pilcher - Montana
Joseph E. Dini, Jr. - Nevada
Frank DuBois - New Mexico
Wayne Cunningham (Alt.) - New Mexico
Lorna Stickel - Oregon
Steve Pirner - South Dakota
Ron Lewis - Texas
David Montagne (Alt.) - Texas
Don A. Ostler - Utah
Mike Llewelyn - Washington
William L. Garland - Wyoming



Left to Right: Ed Anton, Lorna Stickel, Ric Davidge,
Wayne Cunningham, and Francis Schwindt

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Edward C. Anton - California - Chair
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Fred N. Pfeiffer - Texas
Don A. Ostler - Utah

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Lew Dodgion - Nevada
Ron Lewis - Texas
Don A. Ostler - Utah

Non-point Source Pollution Control Subcommittee

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Wayne Cunningham - New Mexico
Francis Schwindt - North Dakota
Steve Pirner - South Dakota
J. David Montagne - Texas
Don A. Ostler - Utah

RULES OF ORGANIZATION²²

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 matters relating to the planning, conservation, development, management, and protection of their water resources.

Article III - Principles

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

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

Article IV - Functions

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

- (1) Undertake continuing review of all large-scale interstate and 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.
- (2) Investigate and review water related matters of interest to the Western States.

²² The rules incorporate changes that were adopted in January of 1989 at the Council's 93rd quarterly meetings in Las Vegas, Nevada.

(3) Express policy positions regarding proposed federal laws, rules and regulations and other matters affecting the planning, conservation, development, management, and protection of water resources in Western States.

(4) Sponsor and encourage activities to enhance exchange of ideas and information and to promote dialogue regarding optimum management of western water resources.

(5) Authorize preparation of amicus briefs to assist western states in presenting positions on issues of common interest in cases before federal and state courts.

Article V - Membership

(1) The membership of the Council consists of not more than three representatives of each of the states of Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming appointed by and serving at the pleasure of the respective Governors. Member states of the Western Governors' Association, which are not members of the Council, shall be added to membership if their respective Governors so request. The Executive Committee may, upon unanimous vote, confer membership upon other western states, which are not members of the Western Governors' Association, if their respective Governor so requests.

(2) Member states may name alternate representatives.

(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 may be granted for a period of up to three years, during which time the state may appoint two official observers to participate in Council activities and receive all printed material disbursed by the Council. Associate Member states shall have no vote in Council matters. The Executive Committee shall, through regular Council voting procedures, establish the appropriate level of dues for Associate Member states. In addition to determinations concerning Associate Member states, the Executive Committee may, when appropriate, establish fees for participation in Council activities by non-members.

Article VI - Ex-Officio Members

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

Article VII - Officers

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

Article VIII - Selection of Officers

The Chair, Vice-Chair 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. However, the Chair and Vice-Chair may not be elected to serve more than two terms consecutively in any one office. In the event that a vacancy occurs in any of these offices, it shall be filled by an election to be held at the next quarterly Council meeting.

Article IX - Executive Committee

(1) Each Governor may designate one representative 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. In the absence of such a designation by the Governor, representatives of each state shall designate one of their members to serve on the Executive Committee. Any Executive Committee member may designate an alternate to serve in his/her 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 external policy 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 such matters may be added to the agenda at any meeting by unanimous consent of those states represented at the meeting. In any matter put before the Council for a vote, other than election of officers, any member state may upon request obtain one automatic delay in the voting until the next meeting of the Council. Further delays in voting on such matters may be obtained only by majority vote. No recommendation may be issued or external position taken by the Council except by an affirmative vote of at least two-thirds of all member states; provided that on matters concerning out-of-basin transfers no recommendation may be issued or external position taken by the Council except by a unanimous vote of all member states. On all internal matters; however, action may be taken by a majority vote of all member states.

Article XI - Conduct of Meetings

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

Article XII - Meetings

The Council shall hold regular quarterly meetings at times and places to be decided by the Chair, 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.

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