

1996

ANNUAL REPORT

of the

WESTERN STATES WATER COUNCIL

Thirtieth Annual Report

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	ii
MEMBERSHIP	1
STAFF	4
COUNCIL MEETINGS	5
OTHER IMPORTANT EVENTS AND ACTIVITIES	14
Council Member Changes	14
Western States Water	14
Water Law Workshop	14
Water Information Management Systems Workshop	15
Western Governors' Association Meetings	16
State/Federal Ground Water Policies Symposium	17
Western Water Management Symposium - Nonpoint Source Pollution	17
Drought	17
Endangered Species Act	19
Federal Energy Regulatory Commission	19
Ground Water Recharge Demonstration Program	20
Safe Drinking Water Act	20
Water Conservation Planning Guidelines	21
Watershed Planning and Management	21
Water Project Transfers and Federal Power Marketing Privatization	21
Western Water Law - Forfeiture and Abandonment Survey and Report	22
Western Water Policy Review Advisory Commission	23
RESOLUTIONS AND EXTERNAL POLICY POSITIONS	25
Clean Water Act	26
Federal Water Conservation Planning Guidelines and Rules	37
U.S. Geological Survey Cooperative Program Funding	39
BUDGET AND FINANCE	41
RULES OF ORGANIZATION CHANGES	54
Policy Coordination and Deactivation	57
Meeting Frequency	57

1996 ANNUAL REPORT

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WESTERN STATES WATER COUNCIL

INTRODUCTION

The first official meeting of the Western States Water Council was held near Lake Tahoe, at Stateline, 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. Over the years, the Western States Water Council has sought to develop a regional consensus on westwide water policy and planning issues, particularly federal initiatives. The Council strives to protect western states' interests in water, while at the same time serving to coordinate and facilitate efforts to improve western water 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.

Associate membership has also been granted states exploring the benefits of membership, experiencing financial hardship, or otherwise temporarily unable to maintain full membership. In 1996, associate membership included Alaska, Montana, Texas and Washington. Council membership (full and associate) stands at sixteen states.

Council membership and associate membership status is determined based on a request from the governor. Each member state's governor is an ex-officio Western States Water Council member. The governor may appoint up to three Council members or representatives, and as many alternate members as deemed necessary. They serve at the governor's pleasure. (Associate member states are limited to two representatives and two alternates.)

Council officers, including the Chair, Vice-Chair, and Secretary-Treasurer, are elected annually from the membership. State representatives are appointed to working committees, with one representative per state also appointed to an Executive Committee. The Executive Committee attends to internal Council matters with the assistance of a 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.

Meetings of the Council are held on a regular basis, rotating among the member states, with state representatives hosting Council members and guests. In 1996, meetings were held in: Washington, D.C. on March 20-22; Fargo, North Dakota on July 31-August 2; and Coronado, California on November 20-22. 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 contacting the Council's office. Included herein are reports on each of the Council meetings, positions and resolutions adopted by the Council, and a discussion of other important activities and events.

The Council staff during 1996 included: D. Craig Bell, Executive Director; Anthony G. (Tony) Willardson, Associate Director; Ricky S. Torrey, Legal Counsel; and a secretarial staff including Cheryl Redding, Lynn Bench, and Alona Banks.

The Western States Water Council offices are located near Salt Lake, in Midvale, Utah.

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MEMBER STATES and MEMBERSHIP⁺

ARIZONA

- *Governor Fife Symington; 1-91
- **Rita Pearson; 6-91
- Michael Brophy; 6-91
- †Russell Rhoades; 8-95
- C. Laurence Linser (Alt.); 6-88

CALIFORNIA

- *Governor Pete Wilson; 1-91
- **David Kennedy; 10-83
- David G. Kelley; 1-83 to 7-83
- reappointed 3-84
- Thomas S. Maddock; 5-94
- Roderick E. Walston (Alt.) 1-86
- Edward C. Anton (Alt.); 2-91
- James M. Stubchaer (Alt.); 6-93

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

*Ex-Officio Member

**Executive Committee Member

†Council members denoted by this symbol are listed on this membership list by virtue of their office, pending receipt of a letter of appointment by their Governor.

HAWAII

- *Governor Ben Cayetano; 12-94
- †Michael D. Wilson; 8-95
- †Thomas Arizumi; 4-96

IDAHO

- *Governor Phil Batt; 1-95
- **Karl Dreher; 7-95
- Wallace N. Cory; 3-95
- Sherl Chapman; 10-95
- Wayne T. Haas (Alt.); 10-83
- J.D. Williams (Alt.); 5-91

NEVADA

- *Governor Robert J. Miller; 1-89
- **Roland D. Westergard; 5-68
- Joseph E. Dini, Jr.; 7-83
- Peter G. Morros; 3-91
- Janet Rogers (Alt.); 5-94
- R. Michael Turnipseed (Alt.); 8-96

NEW MEXICO

- *Governor Gary Johnson; 1-95
- **Thomas C. Turney; 7-95
- 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 to 8-96
- Tom W. Davis (Alt.); 8-96

⁺ The date after 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.

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 John Kitzhaber; 1-95
 - **Martha O. Pagel; 6-92
 - Steve Sanders; 7-90

SOUTH DAKOTA

- *Governor William J. Janklow; 1-95
 - **Nettie Myers; 5-95
 - John Hatch; 6-88
 - Steve Pirner; 6-88
 - John Guhin (Alt.); 6-88

TEXAS

- *Governor George W. Bush; 1-95
 - **John T. Montford; 10-83
 - Charles W. Jenness; 7-91
 - Ron Lewis; 7-91
 - Fred N. Pfeiffer (Alt.); 10-83
 - J. David Montagne (Alt.); 9-92

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

WYOMING

- *Governor Jim Geringer; 1-95
 - **Gordon W. Fassett; 3-87
 - Myron Goodson
 - 6-65 to 3-83
 - reappointed 10-86
 - William L. Garland (Alt.); 10-90 to 11-96
 - Tom Davidson; 10-96
 - Dennis Hemmer (Alt.); 10-96

ASSOCIATE MEMBER STATES

ALASKA

- *Governor Tony Knowles; 12-94
 - †Leonard D. Verrelli; 2-95
 - †Jules Tileston; 2-95
 - †Christopher Estes; 11-96

MONTANA

- *Governor Marc Racicot; 1-93
 - **Gary Fritz; 10-83
 - Steve Pilcher; 4-88
 - Donald D. MacIntyre (Alt.); 2-85
 - Harley R. Harris (Alt.); 6-91

WASHINGTON

- *Governor Mike Lowry; 1-93
 - **Carol Fleskes; 4-94
 - Tom McDonald; 11-91
 - Michael Llewelyn (Alt.); 11-91

COUNCIL MEMBERS

at Coronado, California meeting on November 22, 1996

Front Row: Roland Westergard, Francis Schwindt, Rita Pearson, Sherl Chapman, Wally Cory

Second Row: Mike Turnipseed, Mike Brophy, Karl Dreher, Ken Slattery

Third Row: Craig Bell, Wayne Cunningham, Fred Pfeiffer, Myron Goodson, Ed Anton, Jeff Fassett

Fourth Row: Herb Dishlip, Jim Stubchaer, Hal Simpson, Martha Pagel

Fifth Row: Larry Anderson, Janet Rogers, Don Ostler, John Baker

Sixth Row: Dave Sprynczynatyk, Chuck Lile, Dave Kennedy, John Hatch, Cheryl Redding

Seventh Row: Tony Willardson

STAFF

D. Craig Bell	Executive Director
Anthony G. Willardson (Tony)	Associate Director
Ricky Shepherd Torrey	Legal Counsel
Cheryl Redding	Office Manager
Lynn Bench	Bookkeeper
Julie Stam	Receptionist/Secretary

The Council office is located in the metropolitan Salt Lake City area, and the address is as follows:

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COUNCIL MEETINGS

**120th
Western States Water Council
Meetings
and
Water Policy Roundtable
March 20-22, 1996
Washington, D.C.**

The Western States Water Council (WSWC) and Interstate Council on Water Policy (ICWP) sponsored a Water Policy Roundtable in Washington, D.C. on March 20-22, 1996. Over 100 state and federal officials and guests participated. WSWC Chair Larry Anderson of Utah and ICWP Chair Alfred Vang of South Carolina welcomed those attending. Representative John Doolittle (R-CA), Chair of the House Resources Committee's Water and Power Subcommittee, gave the opening speech. While recognizing changing public values and noting many believe the era of big dams is over, he emphasized the continuing need to develop water resources to meet the needs of a growing population. He also said that dams have many environmental benefits. As an example, he referred to recent hearings on the proposed construction of Auburn Dam, in his district. It would provide flood control and an agricultural and municipal water supply. It would also provide a surface supply of cold water for migrating salmon, help offset ground water overdrafting, and generate recreation and other benefits. Mr. Doolittle also mentioned proposed Endangered Species Act reforms and the Central Valley Project Improvement Act.

A number of roundtable panels addressed several issues. The first addressed issues surrounding the use of risk assessment and management, and cost-benefit analysis. The speakers were: Phil Metzger, Chief Policy Counsel, Environmental Protection Agency (EPA); Jimmie Powell, Senate Environment Committee Staff; Kyle Schilling, Director, Institute for Water Resources, Army Corps of Engineers; and Henry Dean, Executive Director of the St. Johns River Water Management District in Florida. They discussed the appropriate use of these decisionmaking tools in protecting water quality and the public health, through standard setting and prioritizing the investment of limited resources. Mr. Metzger expressed EPA's support for safe drinking water legislation similar to what the Senate passed in November.²

The second roundtable discussion focused on reauthorization of the Clean Water Act. Panelists were: Tim Kasten, Special Assistant to Robert Perciasepe, EPA's Assistant Administrator for Water; Mike Davis, Chief of the Corps of Engineers' Regulatory Program; Mike Evans, Senate Environment Committee Staff; and Ben Grumbles, Staff to the House Transportation and Infrastructure Committee. Mr. Kasten and Mr. Davis both expressed the Administration's opposition to major changes in the Clean Water Act (H.R. 961) and highlighted continuing wetland

²Western States Water, Issue #1125, December 8, 1995.

and water quality protection needs, while referring to efforts to give states and tribes more responsibility and flexibility. Both Mr. Evans and Mr. Grumbles noted that a limited number of legislative days remained in this session of Congress for the Senate to join the House in passing a bill and crafting a conference agreement.³ There is agreement on the need to fund and reauthorize the state revolving fund (SRF) loans.

A third panel discussed issues and policy related to proposed transfers of federal water and power projects. Bureau of Reclamation Commissioner Eluid Martinez said the Administration will “aggressively pursue transfers” as a means to reduce federal operation and maintenance expenses, focusing on simple single-purpose projects. He noted the nonfederal interest in transfers appears to be driven by a desire to get out from under the federal “yoke,” including many regulatory requirements, as well as opportunities to do a better job of operation and management for less cost. He also noted some water users feel they have been abandoned by the new Bureau. Commissioner Martinez touched on a number of very important considerations including interstate compacts, international treaties, native American rights, dam safety, liability, public safety, and environmental compliance. He also expressed his belief that generic project transfer legislation was unworkable, as each water district has different needs. Further, he said there is no appropriate westwide approach, as each transfer will be unique. He stated that there are ten proposed project transfers in serious negotiations. About half have met all of Reclamation’s guidelines.⁴

Others on the federal project transfers panel included: Rich Worthington, representing the Assistant Secretary of the Army (Civil Works); John Clements, Deputy Director, Office of Hydropower Licensing, Federal Energy Regulatory Commission (FERC); William Simmons and Elizabeth Birnbaum, House Resources Committee Staff; and Jeanine Jones, California Department of Water Resources. Jeanine chairs the WSWC’s Water Project Transfers Subcommittee. She reviewed non-federal concerns and different alternative transfer policies and proposals. She highlighted the time and effort it will take to successfully carry out transfers, noting that the transfer of distribution facilities in the Rio Grande basin took three and a half years after it was authorized by the Congress, while serious discussions of the transfer of the Central Valley Project in California have been going on for over fifty years.

Mr. Worthington mentioned Corps concerns with federal project transfers related to continuing needs for flood control, navigation, recreation, environmental mitigation and enhancement, and commercial use of small harbors. He stated the near term savings to the Corps from transfers are not significant, while there are significant costs. John Clements emphasized any transfer legislation should clearly address jurisdictional questions. Federal water and power projects are not subject to FERC regulation, but new nonfederal projects would be. FERC has its own process for determining the public interest and balancing competing interests, which could lead to very different project operating requirements. Mr. Simmons expressed congressional support for transfers, but noted there

³Western States Water, Issue #1096, May 19, 1995.

⁴Western States Water, Issue #1108, August 11, 1995.

is not yet consensus on the details and a project-specific approach is most likely. Ms. Birnbaum said she was very impressed with the WSWC policy statement. She also strongly opposed generic transfer legislation, and stressed the taxpayers' interests, given past federal interest subsidies and responsibility for many various nonreimbursable project costs.

The next roundtable session addressed the evolving federal role in water resources for the U.S. Geological Survey (USGS). Special guests included USGS Director Gordon Eaton, and Robert Hirsch, Chief Hydrologist. Mr. Eaton noted that the USGS has inherited the remaining functions of the old U.S. Bureau of Mines, and next October expects to take in the entire budget and staff of the National Biological Survey. The USGS functions are divided into four major areas: resources; hazards; environment; and data collection and processing. In the future, issues will be more complex, requiring even greater technical expertise and support for decisionmakers. Drinking water quality is just one example. While the USGS budget and staff will increase due to its new responsibilities, actually program spending will be flat or decline. USGS and cooperators must set their priorities. The future of river basin commissions was also discussed.

The last roundtable session looked at the future of federal water policy in the West. Denise Fort, Chair of the Western Water Policy Review Advisory Commission, and Executive Director Larry MacDonnell opened the discussion with a summary of the Commission's charge and goals. Commission member John Davidson of the University of South Dakota raised concern over the lack of a national policy and need for an independent voice. Other panelists were Valerie West and Steve Lanich of the House Resources Committee, and Ben Grumbles. Ms. West said that the states also need to look at any impediments to efficient water management. Mr. Lanich said Congress hopes the Commission will present some clear solutions. He said consensus breeds success.

The WSWC's spring meetings were held in between roundtable sessions. The Executive Committee approved the 1996-97 budget. It also approved and a new procedure to provide member governors a greater opportunity to review and comment on proposed positions. Shaun McGrath, WGA staff, reported on the status of federal legislation, and the Water Quality Committee marked up the WSWC position on the Clean Water Act. Dana Minerva, EPA Deputy Assistant Administrator for Water also addressed Committee members.

Patty Beneke, Assistant Secretary of Interior for Water and Science, spoke before the Water Resources Committee. She expressed her own commitment to consensus building and to regional cooperation. On federal water conservation planning guidelines, she said no decision has been made, but the preferred alternative is for incentives and voluntary action, without approval of plans by the Bureau of Reclamation. Interior Solicitor John Leshy and staff attorneys addressed the Legal Committee and answered questions regarding water project transfers, federal water service contracts, and reserved right claims.

The full Council heard committee and state reports. Then the Council revised and adopted a new Clean Water Act position addressing federal/state partnerships, pollution prevention, watershed

management, risk assessment, funding, water quality standards, state certification, the Clean Lakes program, NPDES permits and stormwater.

**121st Council Meetings
July 31-August 2, 1996
Fargo, North Dakota**

The 121st WSWC meetings were held July 31-August 2 in Fargo, North Dakota. The Council adopted a position endorsing the Bureau of Reclamation's preferred alternative for voluntary water conservation guidelines and another urging that the U.S. Geological Survey give funding priority to the cooperative stream gaging program. The Council also adopted amendments to its Rules of Organization, and discussed a number of important topics, including comprehensive state groundwater management, transfers of federal water projects, non-point source pollution, the work of the Western Water Policy Review Advisory Commission, the state role in watershed improvement efforts, drought response, and implementation of the Endangered Species Act.

The meetings began with a special symposium on July 31 on the "Interaction of State/Federal Groundwater Policies," which featured several presentations by representatives of Council member states and the Environmental Protection Agency. At the end of the day, recommendations were developed and ranked as to their relative urgency and feasibility.

A tour of the Red River Valley allowed members to see major local industries and gain a better understanding of the geography and uses of the Red River, which forms the border between North Dakota and Minnesota.

Two subcommittee meetings were held. The first examined activities associated with the transfer of federal water projects. A reference book on federal water project title transfers was prepared by Jeanine Jones, Principal Engineer, California Department of Water Resources, and distributed to subcommittee members. The other subcommittee meeting planned a symposium on non-point source pollution, which was later held on September 30-October 2, in Salt Lake City, Utah.

The regular committee meetings of the Council began with Betsy Rieke, head of the Natural Resources Law Center at the University of Colorado, discussing the state role in watershed management with the Water Resources Committee. Ms. Rieke shared the Center's initial findings, which will be included in a paper that is expected to be published this September. Next, Warren Lee, Director of the Watersheds and Wetlands Division of the Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture, described their water resources and watershed efforts.

Water Resources Committee Chair, Martha Pagel, next presented for consideration by the Committee a proposed position on federal water conservation planning rules/guidelines. The Bureau of Reclamation had released a final environmental impact statement in February, including a preferred alternative that encourages voluntary water conservation efforts. Noting that the western

states have explicitly expressed their support for a voluntary federal program, the Council resolved to support the preferred alternative. The Committee also discussed amendments to the Safe Drinking Water Act, recently passed by the Congress, which call on the EPA to also develop guidelines for water conservation plans for public drinking water systems. The Committee determined to appoint a subcommittee to advise EPA regarding this effort.

A number of other activities were also discussed. Jeanine Jones briefed the Committee on activities regarding federal water and power project sales and transfers. Tony Willardson reported on efforts to respond to the drought in the Southwest. The Western Governors' Association (WGA) and WSWC are sponsoring a meeting September 5-6, in Austin, Texas to begin the development of a western regional drought response plan. The WGA Task Force will also be assisted by the Bureau of Reclamation and other agencies. Karl Dreher, Director of the Idaho Water Resources Department, reported on the Water Information Management Systems (WIMS) workshop held earlier this year in Arizona, and acknowledged the continuing interest of participants in holding another workshop.

The Water Quality Committee met next to review several matters. Shaun McGrath of the WGA staff provided a legislative update on reauthorization efforts related to the Safe Drinking Water Act and the Clean Water Act. The Committee subsequently discussed EPA's final guidance on non-point source pollution. Next, Ricky Torrey, WSWC staff, reported on progress in preparing a report regarding local watershed initiatives. Its primary purpose will be to assist state water managers who are interested in facilitating and enabling local watershed improvement efforts. In the process of subsequent discussions among member states, it was determined that a joint meeting of the Water Resources and Water Quality Committees should be held to discuss the relationships between water quantity and water quality, and how those relationships are being addressed at the state level.

The Legal Committee met and received an update on Endangered Species Act (ESA) legislation. Shaun McGrath reported that there will be no ESA reauthorization passed in this Congress, but that efforts continue to find a compromise position. Many are looking at a draft bill developed by a WGA Task Force as a possible compromise in reaching a consensus. Committee members then heard from LaVerne Smith, Chief of the Division of Endangered Species of the U. S. Fish and Wildlife Service. She described initiatives introduced and implemented by the Administration over the past few years. Ms. Smith's remarks focused a good deal on guidance and incentives for the development of habitat conservation plans (HCPs). She explained the "no surprises" policy in this context, and referred to guidebooks for the development of HCPs. She indicated that the number of HCPs has risen dramatically over the past few years.

Next, Michael J. Pearce, Chief Counsel for the Arizona Department of Water Resources, reported on establishment of the Arizona Water Bank. He explained the operations of the water banking authority. It is a state government organization authorized to purchase unused Colorado River water and provide storage benefits -- through ground water recharge -- to Arizona's water users, to help protect Arizona against future shortages and provide water supply augmentation opportunities to help meet future state water management objectives. In addition to these critical functions, the Authority may allow water entities in California and Nevada to bank water in Arizona to meet future

needs. His presentation was accompanied by a paper explaining the concepts of the water bank. He discussed the sources of water that may be available for banking, including interstate banking.

The full Council meeting began with a welcome from Bruce Furness, Mayor of Fargo. Council members then enjoyed an interesting presentation by Dave Sprynczynatyk, North Dakota State Engineer, on state water resources issues. Milton Lindvig, Director, Water Appropriation Division, North Dakota State Water Commission, described an initiative in the Red River watershed involving relevant levels of government in both Canada and the United States, as well as private interests.

The Council then heard a report from each of its standing committees. In the course of the Water Resources Committee's report, a motion was made and adopted to approve the resolution in support of the Bureau of Reclamation's preferred alternative for voluntary water conservation guidelines. Also, unanimous consent was received to consider a letter urging that a greater priority be given -- within the United States Geological Survey programs -- to the cooperative stream gaging program. The letter was approved.

In connection with the Executive Committee report, amendments to the WSWC Rules of Organization were adopted to incorporate a policy adopted last March regarding closer policy integration with the Western Governors' Association, as well as the sunseting of Council policy positions. The amendments were unanimously adopted.

A Nominating Subcommittee, chaired by Roland Westergard of Nevada, then recommended Gordon W. (Jeff) Fassett, Wyoming State Engineer, be elected as Chair of the Council for the coming year, with Francis Schwindt, Chief of North Dakota's Environmental Health Section as Vice-Chair, and Michael Brophy, a partner in the Arizona law firm of Ryley, Carlock and Applewhite, as Secretary/ Treasurer. These individuals were elected unanimously.

After hearing about a number of interesting developments in member states, Council members were briefed on U.S. Bureau of Reclamation developments by Steve Richardson, Director of the Office of Policy and External Affairs in Washington, D.C. He discussed recent efforts to respond to the drought in cooperation with western states. He also offered his own personal opinion that the preferred alternative on water conservation would withstand judicial scrutiny⁵.

⁵Western States Water, Issue # 1134, February 9, 1996.

**122nd Council Meetings
November 20-22, 1996
Coronado, California**

The 122nd Council meetings were held November 20-22, in Coronado, California. The State of California organized a field trip that included a tour of the Eastside Reservoir Project near Hemet, now under construction by the Metropolitan Water District of Southern California, the Callaway Winery in Temecula, and the Birch Aquarium of the Scripps Institute for Oceanography in La Jolla. The Eastside Reservoir is an 800,000 acre-foot off-stream storage facility being constructed by damming the east and west ends of the Diamond and Domenigoni Valleys, and by constructing a saddle dam along one rim. The Callaway Winery and its drip irrigation system is a typical example of the high-value agriculture found in the area. The Birch Aquarium features marine life indigenous to the Southern California and the Baja California coastal areas.

The Council meetings began with a joint session of the Water Resources and the Water Quality Committees to discuss issues facing western states in dealing with the interrelationship between the management of water quantity and the protection of water quality. Members planned a special workshop to further explore related issues. Both Committees then met separately.

The Water Resources Committee approved its 1997 work plan, and heard related reports on various matters, including: (1) EPA's development of water conservation and planning guidelines authorized under the Safe Drinking Water Act Amendments of 1996; (2) a workshop on water information management systems to be hosted by the State of Idaho next spring; (3) a draft Council report on the Bureau of Reclamation's Ground Water Recharge Demonstration Program; (4) and a WSWC report for the Western Water Policy Review Advisory Commission. With respect to EPA's water conservation guidelines, the committee proposed that a letter be written to EPA Administrator Carol Browner expressing the interest of the western states in working with EPA to assure that the guidelines are consistent with federal and state laws and provide incentives to use western water resources wisely. The Committee also expressed a strong interest in continuing to work with the Western Governors' Association in formulating recommendations to improve regional drought response capacity. Lastly, Dave Sprynczynatyk, North Dakota State Engineer, reported on developments with regard to the proposed sale of federal power marketing administrations.

The Water Quality Committee also approved its 1997 work plan. It then heard Bruce Macler, Drinking Water Regulation Manager, EPA Region IX, discuss implementation of the Safe Drinking Water Act. Mr. Macler explained that four key elements are: (1) greater emphasis on pollution prevention; (2) a closer examination of risks and reliance on risk management, given the costs and benefits associated with regulations to control contaminants; (3) more flexibility regarding overall implementation, especially at the state level; and (4) increased funding, particularly for newly established state revolving drinking water funds. Mr. Macler also explained EPA's open approach to implementing the Act, and encouraged the Council and member states to participate in the process. He added that the 1996 Act placed overarching emphasis on smaller ground water systems, as opposed to large surface water systems.

Eluid Martinez, Bureau of Reclamation Commissioner, addressed the Legal Committee and emphasized five areas. With regard to water conservation, he reported that a record of decision regarding conservation planning guidelines, under the Reclamation Reform Act, should be out soon. He expects the guidelines will be similar to the previously published preferred alternative. Rather than a heavy regulatory hand, there should be deference to states that already have requirements for water conservation plans. He warned, however, that states without their own programs could expect that someone else will attempt to impose such requirements. Commissioner Martinez also described water reuse as a major new Reclamation initiative. He also said that the Bureau is continuing careful examination of its reservoir operations, particularly in light of continuing pressure by environmentalists. He also spoke of Reclamation's interest in water transfers, recognizing that while some federal responsibility is involved, there needs to be deference to states' rights. Lastly, Commissioner Martinez discussed the Bureau's role in ground water management, where there is a connection with other Bureau responsibilities.

Other guests and members addressed the Committee. Martha Pagel, Director of the Oregon Department of Water Resources, reported on the decision of a federal district court in the case, *Oregon Natural Desert Association vs. Thomas*, expanding the scope of section 401 of the Clean Water Act. Section 401 authorizes states to certify whether or not proposed federally sanctioned activities will comply with state water quality standards. The decision's holding applies section 401 to federal grazing permits. Next, Dave Schlesinger of the City of San Diego reported on water reuse projects which, according to estimates, provide just under 10% of the City's needs. This may well increase as other plants are constructed. Sherl Chapman, a member from Idaho, reported on the progress of a task force looking at bypass flows on U.S. Forest Service lands and other related issues.⁶ As a task force member, he said they are anxious to have input, and are planning to meet with the Western States Water Council in March 1997, in Portland, to facilitate comments by Council members on the issues facing the task force. After discussion, the Legal Committee approved its 1997 work plan. The Committee concluded by hearing about the status of several items of litigation in various states.

WSWC Secretary-Treasurer Mike Brophy reported on the current status of the budget in the Executive Committee. Jeff Fassett, Council Chairman, then reported on the October new officers and chairpersons meeting. The group suggested Council meetings' format changes, moving subcommittee meetings from Wednesday night to Thursday morning, abbreviating committee reports at the full Council meeting, and emphasizing attendance for presentations by special guests. The Committee also recommended amending the WSWC rules of organization, consistent with the current practice of meeting three times per year, as opposed to the previous quarterly meetings. The format for an afternoon meeting with the Western Water Policy Review Advisory Commission was discussed. Also discussed were the process for sunseting previous Council policy positions, strategies for increasing Council revenues, and appointment of WSWC representatives to the Federal Advisory Committee for Water Information, at the request of Secretary of Interior Bruce Babbitt, and to an EPA task group on streamlining the comprehensive state ground water planning process.

⁶Western States Water, Issue #1162, August 23, 1996.

Thursday afternoon WSWC members met jointly with members of the Western Water Policy Review Advisory Commission. A draft WSWC report to the Commission was discussed. It addresses present and anticipated water problems in the respective western states, how future water supply requirements might be met, and how the federal government might assist the states in dealing with water problems and requirements. Other aspects included the needs of rural communities, innovations in water management at the state level, additional storage arrangements, and the potential for water conservation. Much of the discussion revolved around the appropriate federal role in western water management. The draft report will be further reviewed by Council members and a final report submitted to the Commission in February 1997. The Commission also met Thursday morning to hear reports from federal agencies, and again on Friday in an afternoon session to work on an outline for the Commission's report.

The full Western States Water Council met on Friday morning. First Dan Peterson of the California Department of Water Resources described the threat presented by zebra mussel infestations, and steps being taken to prevent/delay their introduction into California. Zebra mussels are a multimillion dollar problem for water supply and distribution systems.⁷ Next, the Council listened as Lester Snow, CALFED/Bay-Delta Program Executive Director, outlined the program's objectives and progress towards achieving long-term solutions for San Francisco Bay/San Joaquin-Sacramento River Delta problems. Mr. Snow also noted voter approval of a related \$990 million California bond measure.⁸

Committee Chairs reported on committee actions. The Council approved changes to the rules of organization regarding the number of Council meetings per year. The Council also approved sending a letter to EPA urging participation by the Council and western states in the development of appropriate EPA guidelines for water conservation under the Safe Drinking Water Act.

⁷Western States Water, Issue #1167, September 27, 1996

⁸Western States Water, Issue #1173, November 8, 1996.

OTHER IMPORTANT EVENTS AND ACTIVITIES

Council News - Members and Staff

During 1996, there were a number of changes in membership and staff. Alaska named Christopher Estes, Instream Flow Coordinator for the Department of Fish and Game, as a member. Manabu Tagomori retired from state service after representing Hawaii for almost eight years (as an observer and member). He was replaced by Thomas Arizumi, Chief of the Environmental Management Division of the Department of Health. R. Michael Turnipseed, the Nevada State Engineer, was named as an alternate member. In New Mexico, Richard A. Simms, a long-time alternate member and former staff of the State Engineer's Office, was replaced by Tom W. Davis, Manager of the Carlsbad Irrigation District. In Wyoming, after six years as an alternate member, William Garland was replaced by Dennis Hemmer, Director, Department of Environmental Quality. Tom Davidson, Wyoming Deputy Attorney General, was also appointed as a member.

Also, in memoriam, two prominent early members of the Council passed on during 1996. William "Bill" Warne was Director of the California Department of Water Resources when the Council was organized in 1965, and was appointed as one of the charter members by Governor Edmund G. "Pat" Brown. Daniel F. Lawrence, a former director of the Utah Division of Water Resources, was appointed as a member in 1968 by Governor Calvin Rampton. He represented Utah for seventeen years and served as WSWC Chairman in 1980.

Western States Water

Since the first issue in 1974, the Council's weekly newsletter, Western States Water, has been one of its 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. Further, 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 fee, which is \$100.

Water Law Workshop

The American Bar Association's Section on Natural Resources, Energy and Environmental law sponsored its 14th Annual Water Law Conference in San Diego on February 8-9. The Western States Water Council and the Conference of Western Attorneys General cosponsor the meeting. A diverse group of speakers from academia, government and private practice addressed a host of contemporary water-related legal issues. Patricia Beneke, Assistant Secretary of Interior for Water

and Science, was the featured luncheon speaker. She emphasized her commitment to solving problems using a balanced approach to achieve broad-based support through consultation with stakeholders. She said Interior's Office of Water will seek flexible reconciliation of conflicting regulations. Ms. Beneke discussed the final EIS for the Bureau of Reclamation's water conservation planning guidelines and stressed that they will be advisory, not mandatory. She also noted that the conservation guidelines do not apply to the Central Valley Project in California.⁹

Other topics discussed included: (1) involuntary water transfers under state and federal laws; (2) the priority system under prior appropriations law; (3) economic incentives for controlling nonpoint sources of pollution; (4) Clean Water Act issues, including treatment of tribes as states and whether nonpoint source pollution should be permitted under Section 401; (5) ownership and reuse of federal water; (6) privatization of federal hydropower projects; and (7) alternative dispute resolution.

Water Information Management Systems Workshop

The Arizona Department of Water Resources and Western States Water Council sponsored a workshop in Phoenix on May 15-17, on water information management systems (WIMS). The third in a series, the meeting drew 60 state and federal officials from across the West. Eleven states made presentations, as did the USDA's Natural Resources Conservation Service, the U.S. Bureau of Reclamation, the U.S. Water Conservation Laboratory and the National Drought Mitigation Center. Much of the meeting involved practical demonstrations, as Arizona set up a number of work stations and a server to access actual databases and show how its system works. Moreover, some time was spent "on-line," with agencies displaying their Internet home pages.

Some of the topics discussed included database development and administration, water rights adjudications, water resource and water conservation planning and tracking water use, mapping and imaging, integration of geographic information systems (GIS) and global positioning systems (GPS), providing technical support for decisionmaking, and funding information management program development. The Internet demonstrations displayed not only access to general agency and program information and contacts, but how some states are using the Internet to allow water users and others to electronically retrieve forms and then file water right and water use permit applications, file protests and appeals, and review and comment on proposed agency rules and regulations.

With much more powerful, fast and efficient desktop computers, most states are moving quickly towards taking information out of large state mainframe computers and putting it onto servers that allow users and other clients direct access to the data. This migration to a much more open and decentralized "client/server environment" is creating tremendous opportunities and challenges. Water managers and users may be able to access information that they always wanted for use in decisionmaking, but which was not available in a timely manner. However, access isn't the only question. Is the data reliable? What type of quality controls exist? How can you search the data? What "browsers" are available? Should some of the data be considered confidential or proprietary

⁹ Western States Water, Issue #1134, February 9, 1996.

information? What security measures may be needed? These are just a few possible questions. Workshop participants recommended that the WSWC continue sponsoring such meetings.

Western Governors' Association

Annual Meeting

Member governors and guests met June 22-24 in Omaha, Nebraska for the annual meeting of the Western Governors' Association. The governors discussed a number of issues and initiatives. The opening plenary session focused on the "Transportation Futures Project." The governors received a number of recommendations from a special task force on how to improve the interoperability, safety and efficiency of the West's various transportation systems. The next plenary session concerned the establishment of the Western Governors' "virtual university," a catalog of accredited courses that might be taken through electronic and other means of communications outside the confines of university classrooms. The attending governors signed a memorandum of understanding committing them to seek funding for the next steps of implementation. The third plenary session concerned information technology and the West. The governors discussed policy issues under the umbrella of their "Smart States Information Technology Initiative," which focuses on the recent federal Telecommunications Act of 1996. In this discussion, the governors were joined by Federal Communications Commission Chairman Reed E. Hundt.

The final activity was the election of new officers for the WGA and the adoption of resolutions. Governor Schafer of North Dakota, current Vice-Chair, was elected Chair for the coming year, and Governor Romer of Colorado was elected Vice-Chair. One of the resolutions adopted by the governors concerned emergency response to drought. The resolution was sponsored by Governor Johnson of New Mexico. It notes the severe drought conditions in the Southwest, and names several existing institutions that help states respond to drought. It mentions the Western States Water Council, describing its long history in water conservation and in state drought planning. The resolution further identified the National Drought Mitigation Center, the worldwide web site of the American Waterworks Association and its "Waterwiser," a water conservation clearinghouse. It also cites the Federal Emergency Management Agency, which has created a drought response task force to address the impacts of the current drought.

The resolution expresses the governors' policy that a comprehensive integrated response to drought emergencies is critical "to the social, environmental and economic well being of the West." The governors also note the importance of working together in cooperative efforts with other entities. The governors ask that efforts be coordinated through the Western Governors' Association task force, which obtains input from the WSWC. The task force is to undertake a multi-pronged approach to drought response, including the following: (1) coordinating the drought response needs of the states; (2) working with existing state, federal and private entities to develop criteria for assessing stages of drought, and for coordinating emergency response measures; and (3) working with existing entities to coordinate the sharing of solutions and implementing relief measures. The task force, with WSWC's assistance, is to develop a report for the governors providing background

information, and findings and recommendations about drought management in the West. The report is to include suggested actions and legislative initiatives to alleviate the immediate crisis and to prepare for the potential worsening of the drought. The WGA supports water conservation initiatives and coordinates state input and interaction with the appropriate conservation clearinghouses.

State/Federal Ground Water Policy Symposium

A special symposium entitled, "Interaction of State/Federal Groundwater Policies," was held on July 31, immediately preceding the regular WSWC meetings in Fargo, North Dakota. This event is described in more detail under that Council meetings report, and it featured several presentations by representatives of Council member states and the Environmental Protection Agency.

Water Management Symposium - Non-Point Source Pollution

The annual WSWC Water Management Symposium was held in Salt Lake City on September 30-October 2. The topic was non-point source (NPS) pollution. Approximately fifty participants attended from several different states, tribes, and industry and interest groups. The program included a discussion of a variety of NPS issues, programs and approaches at the local, state and federal level. Featured speakers included prominent state and federal NPS program directors and leaders of NPS initiatives. A related field trip included a visit to the Millcreek Canyon Stream Restoration Project and a tour of Murray City's portion of the Jordan River Parkway Demonstration Project.

Drought

The U.S. Southwest faced one of its worst droughts in forty years. WGA and WSWC staff worked to address related issues. Precipitation in some areas for the water year was only one quarter of average. As a result, wildfires raged and crops and pastures withered. Emergency federal funding helped firefighting in Arizona and New Mexico. Cattle were sold for slaughter because of a lack of forage. USDA opened up conservation reserve program lands for emergency haying and grazing. Soil moisture and dry land crops were in poor condition. Eleven million acres of winter wheat were lost. Many farmers without irrigation systems faced bankruptcy. Many farmers had purchased federal crop insurance, but many had not or didn't have enough to cover the year's losses.

Texas was especially hit hard. Governor George Bush stated: "We need a lot of rain, but neither the governor nor the state of Texas can make that happen. What we can do is provide expertise to help local communities maintain a safe drinking water supply and urge conservation to extend our water resources as much as possible." Texas' reservoir storage levels reached all-time highs in 1992-93, at 33.6 million acre-feet (Maf), but declined by 7.7 Maf through drier years and in 1996 it was feared levels might drop to less than 22 Maf, a new all-time low. Texas Natural Resources Conservation Commission Chairman Barry McBee said: "The state of Texas is very concerned about how a long-term drought may affect drinking water supplies. The state is advocating water conservation as the best tool we have for managing our water supplies."

Other states were also significantly affected and took various actions. Arizona Governor Fife Symington declared a drought emergency, due to dry range and wildfire conditions. Utah Governor Mike Leavitt declared counties in southeastern Utah agricultural disaster areas, and New Mexico Governor Gary Johnson proposed a regional emergency response to the drought.

The Federal Emergency Management Agency (FEMA) created a multi-state drought task force, led by Region VI Director "Buddy" Young, to address the impact of the drought, assess conservation efforts and identify what federal drought-relief resources were available. The group was also to serve to coordinate federal, state and local agency programs in Arizona, California, Colorado, Nevada, New Mexico, Oklahoma and Texas. Other participating federal agencies included the U.S. Department of Agriculture, Small Business Administration, Army Corps of Engineers, and Interior Department. According to Young: "The Drought and Emergency Assistance Task Force is a state-federal partnership that will examine what assistance may be provided to those states suffering from the worst drought in decades.... The federal government and the drought-impacted states will work together to develop an overall strategy to mitigate the effects of this devastating situation."

The Western Governors' Association created its own state level task force, and with WSWC assistance, prepared a Drought Response Action Plan that was approved by the governors at their winter meeting in San Antonio, Texas on November 21-22. The governors also met with Department of Agriculture Secretary Glickman on November 20. The WGA plan satisfied in part a charge to immediately identify barriers to an effective response at the federal level. It noted that this year's drought in the Southwest again shows the need for improving state drought planning and response tools, and the critical importance of timely cooperation at all levels of government. The plan is only one step toward developing and improving both short and long-term response action plans. The report states, "In most all cases, government agencies at all levels lack a standard policy for handling any drought--regardless of its duration or impacts--providing confusion and a lack of understanding of roles and responsibilities.... The lack of state-wide preplanning for some states, plus the absence of organizational structures and processes to identify and resolve issues, facilitate networking, and identify and promote partnerships also hinder reaction time and effectiveness."

The plan recommends: (1) development of a national drought policy that plainly spells out preparedness, response and mitigation measures; (2) each state develop an appropriate drought contingency plan; (3) establishment of a regional drought policy and coordinating council consisting of policy makers and drought managers to assist states and raise federal awareness; (4) creation of a federal interagency coordinating group to focus federal efforts and provide "one-stop shopping" access to federal assistance; and (5) ensuring that drought is an essential element of any discussion of national water policy, adding that it should be addressed as part of the Western Water Policy Review Commission's current assessment. There are other more detailed recommendations related specifically to agriculture, water resources, wildfire and forest health.

Copies of the report are available from the WSWC office or WGA at (303) 623-9378.

Endangered Species Act

Gridlock over reauthorization of the Endangered Species Act (ESA) continued, given a lack of consensus with respect to legislative changes. The Administration continued to maintain that there was no need for significant legislative changes. While Congressional support grew for some type of reform, thought there is still little agreement on the scope of any changes. The Council supported the work of the WGA and monitored ESA issues. The impact of the ESA on western water resources management continued to grow, with judicial decisions limited pumping of ground water from the Edwards Aquifer around San Antonio, Texas and regulatory actions surrounding the listing of various salmon and steelhead populations in the Northwest. The case of *Bennett v. Plenert* also reached the Supreme Court, which will define the rights of parties harmed by implementation of the Act to seek judicial remedies.¹⁰

Federal Energy Regulatory Commission

The conflict over legitimate state concerns and interests in the federal licensing of non-federal hydropower projects continued as part of the debate over reauthorization of the Clean Water Act. However, the Supreme Court's recognition of the states' authority to include minimum stream-flows as a condition of the required certification under Section 401 of the Clean Water Act restored to the states some degree of control over the effects of a project on their water resources.¹¹ While the hydropower industry urged the Congress to amend the Clean Water Act and overturn the Court's decision, larger issues and interests continued to tie reauthorization efforts. The Council and the WGA actively opposed amendments weakening the states' authority to set mandatory conditions under Section 401. The CWA reauthorization debate continued.

Further, the National Hydropower Association (NHA) pushed a proposal to streamline and otherwise reform the present federal hydropower licensing and relicensing process. WSWC staff reviewed and summarized the proposal. NHA stated, "[N]o one is happy with the current regulatory process." The process takes too long, and other specific criticisms are that public involvement opportunities are not effective, non-governmental organizations only get involved late in the process, information requirements are not clear, disputes are not resolved early, National Environmental Policy Analysis (NEPA) analysis comes late, Federal Energy Regulatory Commission (FERC) staff are only involved after an application is filed, and there is poor integration of state and federal approval processes.

While unable to reach consensus on all the issues, there appeared to be strong agreement for integrating NEPA requirements with licensing, involving FERC staff from the beginning, "expanding opportunities for State agency and public participation early in the process, allowing their involvement in scoping of relevant issues and in the design of field studies," developing an

¹⁰Western States Water, Issue #1147, May 10, 1996 and #1174, November 15, 1996.

¹¹Western States Water, Issue #1048, June 17, 1994.

integrated study process for developing information for all agencies, improving the dispute resolution process, and “encouraging FERC to establish Memoranda of Understanding with other agencies that must grant approvals for the project or that could contribute cumulative impact information to the process.” NHA concluded that it had done all that it realistically could on its own and that FERC and others “must join in the effort to bring relicensing reform to completion.” While the relicensing reform proposal claimed to seek to provide a substantive role for state government, the NHA continued to advocate eliminating mandatory licensing conditions imposed by states and federal agencies other than FERC.

Ground Water Recharge Demonstration Program

Council staff continued to work on a draft report for the Bureau of Reclamation on its ground water recharge demonstration program. The program is in its seventh year, and final project reports are just now nearing completion. A cooperative agreement under which the work was undertaken was again extended to allow for analysis of the projects that are completed. A summary report and series of case studies will highlight economic and institutional aspects of the program, including economic efficiency, financial feasibility, benefit-cost analysis, cost sharing and cost recovery arrangements, legal issues, and environmental and political acceptability. A draft summary program report on economic, financial, legal and institutional issues was completed and distributed for comment. Work continued on a number of case studies involving both demonstration projects and non-program projects. The word “managed,” as opposed to “artificial,” was being used to describe ground water recharge. It appears recharge is going to play a larger and larger role in the West. It provides some very unique opportunities, accompanied by unique costs and benefits.

Safe Drinking Water Act

President Bill Clinton signed the Safe Drinking Water Act (SDWA) Amendments of 1996 into law on August 6. It was the first major piece of environmental legislation enacted by the 104th Congress (Public Law No. 104-182). The bill passed 392 to 30 in the House and 98 to 0 in the Senate. The law authorized creation of state revolving loan funds (SRFs) with federal capitalization of \$7.6 billion over seven years, representing a sharp increase in authorized federal funding for municipal and rural water supply systems. In addition, for the first time, the SDWA includes a “right to know” provision which will require water utilities to disclose high levels of chemicals and bacteria found in drinking water. It also requires 24-hour public notice when a dangerous contaminant is found. Additionally, it requires EPA to establish more stringent standards against cryptosporidium and other drinking water contaminants that pose significant health risks.

Overall, the focus of the reauthorized SDWA has shifted, from an approach of identifying new contaminants, to a focus on controlling those contaminants posing the greatest health risk. In determining health risk, the new law sets high standards that consider the special needs of children, the elderly and persons with compromised immune systems. The reauthorized SDWA also adopts a new approach towards source-water protection. It will attempt to prevent pollution at its source, keeping streams and rivers clean, and improving water treatment facilities.

Water Conservation Planning Guidelines

In 1995, the WSWC and U.S. Bureau of Reclamation cosponsored a number of workshops on proposed federal planning guidelines and criteria and a conference of current state and federal activities. Findings and recommendations were prepared, reviewed, refined and sent out. Final federal guidelines have yet to be released, but in August 1996, the Council adopted a position supporting the preferred alternative identified in a final environmental impact statement (EIS) that favored voluntary incentives to promote conservation. Others similarly supported such action, but some environmental groups were strongly opposed to voluntary guidelines and favored mandatory rules. The Council and WGA continued to encourage water conservation through voluntary and flexible incentives to meet reasonable goals, as opposed to penalties for non-compliance with rigid mandates. Moreover, the Council noted that the SDWA amendments in 1996 also directed EPA to develop water conservation guidelines for municipalities.

Watershed Planning and Management

The Council has continuously served as a forum for the discussion and improvement of state water planning and management activities. More and more water management challenges, related to both quantity and quality, are arising throughout the West. Past command and control approaches to these problems have only been partially effective and often lack an integrated grassroots approach to problemsolving and decisionmaking. Together, the WGA and WSWC have sponsored several workshops over the last few years in an attempt to develop guidelines for addressing complex and interrelated environmental, economic and social problems related to water. Consistent with the Park City Principles, there is a growing commitment toward promoting watershed management and planning initiatives at the local level as perhaps the most promising approach to identifying and resolving pressing water-related problems. In this regard, the Council sponsored a workshop in connection with its Rapid City meetings in August of 1995 on state planning as it relates to local watershed activities.

In 1996, the WSWC began preparing a report on state watershed planning and management activities with emphasis on the relationship between these activities and local watershed efforts, drawing upon the presentations at the August 1995 workshop. In cooperation with the WGA and with EPA funding, the WSWC is preparing the report for state water managers as a means of identifying options for consideration to promote effective local watershed efforts.

Water Project Transfers and Federal Power Marketing Privatization

Federal proposals for divestment of water and power projects and related facilities continue to raise concerns regarding future project operations and public and private costs and benefits. Very rarely has this been done in the past, and there is therefore little or no precedent. Various state and local entities are pursuing the transfer of federal water projects. Potential benefits include increased project yield through greater system efficiencies and reduced redundancies; improving water management, water conservation and water marketing; improving conjunctive ground water and

surface water management; more efficient water deliveries; and better protection of vital aquatic ecosystems. However, the complexity associated with the transfer of a large federal project appears daunting, and there are many important issues to be carefully considered.

During 1996, the Water Resources Committee identified and considered related issues and followed proposed federal legislation. Jeanine Jones, chair of the Federal Water Projects Transfer Subcommittee, prepared and distributed to members a comprehensive compilation of information on transfer proposals in the form of a workbook. The workbook included all of the proposed transfers of Bureau of Reclamation and other projects. While there have been extensive discussions over some project transfers, in general it does not appear that many will come to fruition, given the many obstacles to be overcome. The workbook included proposed legislation, but no action has been taken recently and none is expected soon. Council staff also prepared a summary of findings, principles and criteria, and guidelines extracted from the Council's current position and discussions with members. However, there were no recommendations for further WSWC action for the present.

WSWC staff also helped WGA Chairman Ed Schafer, Governor of North Dakota, respond to a General Accounting Office study of power marketing administration (PMA) costs and midwestern congressmen critical of regional differences in electric power rates attributable to subsidized federal hydropower. Governor Schafer responded that western governors are willing to examine any legitimate proposals which would result in the receipt of full value of PMA assets and boost the efficiency and effectiveness of the services provided. However, he rebutted the argument that electric power rates are higher in places like New Jersey and Massachusetts than the West because of federal "subsidies." He argued economic fundamentals, such as the availability and price of fuel for electric power generation and the wisdom of past generation investment decisions, are the critical determinants of the cost of power in different regions. While the GAO study was used to criticize "unrecovered" irrigation-related capital costs for the Pick-Sloan Missouri Basin Program, WSWC staff helped Governor Schafer highlight serious shortcomings in the way the report characterized "subsidies." GAO failed to point out that the costs of specific projects were allocated among varying uses at the time the projects were authorized. This allocation represented carefully considered political compromises, and GAO, in fairness, might also best review flood control, navigation and other federal water project "subsidies" in the Mississippi and Ohio River drainages and on the East Coast and Great Lakes.

Western Water Law - Forfeiture and Abandonment Survey and Report

All western states have laws providing for loss of water rights due to intentional abandonment, and most states have statutory provisions for involuntary forfeiture. All western states also require that water must be put to beneficial use in order to perfect a water right. Although these laws are longstanding, there are relatively few reported cases applying them. There are indications, however, that increasing application of these laws may be prompted by active competition for limited water supplies. One such indicator involves the Newlands Reclamation Project in Nevada. Since 1984, several hundred transfer applications have been filed for Newlands project water rights. Although the project was planned to encompass some 232,000 acres, in reality only about 60,000 acres have

been irrigated at any one time, and many of the lands with purported appurtenant rights are incapable of irrigation as contemplated under the law. Thus, most of the transfers have been opposed on the basis that the water rights are invalid. Notably, the Pyramid Lake Paiute Tribe petitioned to declare some 15,000 acres of Newlands Reclamation Project lands as lands with inactive or invalid water rights due to forfeiture, abandonment, or lack of perfection of the underlying water right. WSWC staff, under the direction of the Legal Committee, undertook preparation of a report on developments in water rights transfer applications, litigation and statutes concerning application of forfeiture and abandonment laws and requirements for perfection of water rights claims.

Western Water Policy Review Advisory Commission

Congress enacted the Western Water Policy Review Act in 1992, and directed the President, "...to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources." The Act also authorized creation of an advisory commission, composed of twenty-one members, including specific key Congressmen and others appointed by the President. However, activation of the federal advisory commission required a charter from the Department of Interior, which was not granted until September 1995. The deadline for a report was extended to the end of 1997. With an expansive mandate, but relatively little time and money to accomplish its tasks, the Commission looked for cooperation from states in completing many of the Commission's tasks. The Commission asked the Council to provide it with information drawn from member states. During 1996 this information was gathered and compiled in a draft report, together with an appendix consisting of the individual state responses. A draft report, "Water in the West Today: A States' Perspective," was distributed prior to the meeting of the Council with members of the Commission in November 1996.

POSITIONS AND RESOLUTIONS

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 policy positions and resolutions, many of which address proposed federal laws, rules and regulations and other matters affecting the planning, conservation, development, management, and protection of western water resources. The following were adopted by the Western States Water Council in 1996.

CLEAN WATER ACT REAUTHORIZATION

The Western States Water Council has had a long-standing interest in many Clean Water Act (CWA) issues. The Committee worked to influence the national debate the CWA was reauthorized in 1987, and since then, has monitored it's implementation, particularly in matters of interest to western states. The CWA was again due for reauthorization in 1992. Intense national debate through 1996 has failed to achieve consensus and the Council has continued to be involved in discussions with federal officials and other states and organizations concerning reauthorization.

Working together with WGA representatives, the Council has engaged in extensive discussions on legislative proposals addressing western concerns with CWA reauthorization. These included strengthening the expression of deference to state water management authority in section 510, clarifying the scope of state authority under section 401, seeking to foster cooperation between states and tribes under section 518, the inclusion of arid states provisions for ephemeral and intermittent streams and abandoned mine provisions ("Good Samaritan" provisions). Additional Clean Water Act issues have also been raised by Council members. Among these issues are the impacts of introduced aquatic species on water quality management requirements under the CWA, antidegradation provisions, and "Water Quality Limited Segments" lists of impaired and threatened waters required under section 303 of the CWA. The Council also has an interest in watershed and nonpoint source pollution control provisions and funding issues.

A key factor of interest to the Council is preserving states' control over water rights in their states. Section 101(g) provides that Congress did not intend to supersede, abrogate or otherwise impair a state's authority to allocate quantities of water within its jurisdiction. A parallel provision under section 510 states that, except as expressly provided under the CWA, nothing in the Act shall preclude or deny the right of any state to adopt or enforce water quality standards or laws, or to impair the states' rights or jurisdiction over the states' waters. Some court cases, however, have weakened application of these provisions and concerns have arisen that the CWA, through water quality controls, could curtail states' jurisdiction over their waters.

Under section 401, states are required to provide a water quality certification to assure that any federal license or permit issued for any activity that may result in a discharge will comply with CWA standards and "any other appropriate" state law. In 1994, the U.S. Supreme Court ruled that a state may impose conditions on water quality certifications necessary to enforce a designated use contained in a state's water quality standard, and upheld Washington State's imposition of a minimum instream flow requirement to protect fisheries.

In 1995, H.R. 961 passed the House, but no CWA reauthorization legislation was introduced in the Senate. During 1996, the Council continued monitoring and discussing key issues of a national scope, including wetlands and nonpoint source pollution and funding allocations. The Council also worked to influence proposed federal legislation, together with the WGA and other organizations. The Council also reconsidered and refined or modified an earlier position on CWA reauthorization (Position 202), consistent with developments in the Congress.

**REVISED
POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
REAUTHORIZATION OF THE CLEAN WATER ACT
March 22, 1996**

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.

FEDERAL/STATE PARTNERSHIP

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 Procedure Act.

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. Adequate 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. States should be allowed to craft their watershed management to meet their needs, but they should clearly define the goals and the scope of such programs. 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.
3. 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.
4. There should be no interference with the rights of the states to manage allocation of their water supplies.
5. 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.
6. 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.
7. EPA should provide technical, financial, and research assistance. It should not mandate any particular approach or try to mandate its preferred methods.

8. 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.

RISK ASSESSMENT AND MANAGEMENT

Implementation of programs authorized by the Clean Water Act should be based on the magnitude of risk to human health, the environment, and the protection of designated uses. Benefits of regulation, including adequate consideration of the value of ecological resources, and other relevant factors that may not be readily quantifiable should outweigh the costs.

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 years. 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 at 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. Funds in the state water

pollution control revolving fund should be available to cover costs of administering the fund in an amount not to exceed the greater of 6% of all grant awards to the fund, or ½ of 1% per year of the total amount of the valuation of the fund or \$600,000.

6. Separate funding 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. States should have flexibility to apply SRF funds at their discretion to either drinking water or wastewater programs.

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.

8. SRF funding should be made available for the close-out of construction grant programs.

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. It should be left to states to select an appropriate mix of voluntary and mandatory approaches to control such pollution, provided that the overall program is adequate to achieve compliance with water quality standards within a 15-year time frame. 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. The CWA should not mandate specific effluent standards for stormwater discharges.

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 five years rather than every two years.

4. The states should review and revise water quality standards at least every five years. 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. When a state, in establishing a water quality standard, has considered the impacts of non-water quality factors -- such as legal and illegal harvest of fish, introduction of non-native aquatic species, and unscreened diversions -- on the maintenance of a balanced population of fish, shellfish, and wildlife, the Administrator shall also consider those factors in reviewing the state's standard.

7. 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 support fishable/swimmable uses.

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.

4. The CWA reauthorization should continue funding for the Arid Water Quality Research Project in order to develop appropriate water quality criteria and standards for ephemeral and effluent dependent streams, and to conduct other scientific research needed for such development.

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 and establish water rights. This fundamental principle of deference, which is manifest in many other federal environmental statutes, should be reinforced 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.

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 must recognize the basic differences between natural wetlands and those that are artificially and/or incidentally created. 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. States should have the option to regulate stormwater using a permit issued under Section 402 or a state non-point source management program under Section 319 of the Act.

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.

ANTI-BACKSLIDING

1. The CWA should be revised to clarify that anti-backsliding requirements apply only to technology-based effluent limits. Water quality-based limits may become more or less stringent over time as more information is acquired about the conditions necessary to protect beneficial uses.

Any implication that anti-backsliding requirements apply to water quality-based limitations provides a powerful disincentive for states to establish conservatively protective water quality standards in the face of uncertainty. 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

The Clean Lakes program has been a valuable program. The Congress should continue to provide resources to improve the quality of the nation's lakes.

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. State certification under Section 401 should be considered granted pursuant to federal law and should not be superseded by other federal law.

TRANS-BORDER AREAS

The International Boundary and Water Commission, International Joint Commission, and EPA need adequate resources to deal with water quality issues in trans-border areas. Also, mechanisms should exist for better coordination and participation between the International Boundary and Water Commission, International Joint Commission, 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. Congress should provide direction that will aid in cooperative resolution of water quality issues.

CLEANUP OF ABANDONED AND INACTIVE MINES

States and local government agencies should be encouraged to address water quality problems caused by abandoned and inactive mines. To provide encouragement, the remediating party must be assured that its liability for cleanup at the site is limited to following its cleanup plan including any amendments thereto. The remediating party should not be liable for conditions existing prior to initiation of cleanup under its remediation plan.

N.P.D.E.S. PERMITS

States should be allowed to issue NPDES permits for a ten-year period, based on their assessment of the need for permit life. Effluent limitations based on biomonitoring should recognize the variability of the testing procedures and the existence of species of concern in the receiving waters.

U.S. BUREAU OF RECLAMATION'S WATER CONSERVATION PLANNING GUIDELINES / RULES

In 1995, the WSWC and U.S. Bureau of Reclamation cosponsored a number of workshops on proposed federal planning guidelines and criteria and a conference on current state and federal activities. Findings and recommendations were prepared, reviewed, refined and sent out. While final federal guidelines had yet to be released, in August 1996, the Council adopted a position supporting the preferred alternative identified in a final environmental impact statement (EIS) that favored voluntary incentives to promote conservation. Others similarly supported such action, but some environmental groups were strongly opposed to voluntary guidelines and favored mandatory rules.

The Council and WGA continued to encourage water conservation through voluntary and flexible incentives to meet reasonable goals, as opposed to penalties for non-compliance with rigid mandates.

Moreover, the WGA and WSWC sought to ensure that any federal rules and regulations, or guidelines and criteria, would be reasonable and appropriate, and that any water savings would be allocated under state law and policy, taking into account existing property rights and the public interest.

**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
WATER CONSERVATION PLANNING GUIDELINES/RULES
Fargo, North Dakota
August 2, 1996**

WHEREAS, the U.S. Bureau of Reclamation released a final environmental impact statement on water conservation rules and regulations in February 1996, but rules and regulations have yet to be promulgated; and

WHEREAS, as presented, the preferred alternative appropriately encourages water users to voluntarily develop and implement water conservation plans under existing federal regulations and non-binding advisory guidelines; and

WHEREAS, Reclamation is developing and carrying forward a program of federal incentives that include technical and financial assistance; and

WHEREAS, western states have explicitly expressed their support for such a voluntary federal program with flexible incentives and oppose specific federal mandates; and

WHEREAS, western states' water laws and administrative programs already take into account site-specific hydrologic, economic and environmental factors and encourage and require appropriate and cost effective water conservation actions; and

WHEREAS, duplicative federal review, approval and compliance efforts would be expensive and ineffective; and

WHEREAS, any water savings must be allocated in accordance with substantive and procedural state water law and administrative policies; and

WHEREAS, Reclamation's preferred alternative strikes a reasonable balance between federal interests and efforts to encourage greater water conservation and states' rights to allocate and administer the use of its water resources in accordance with longstanding laws and policies;

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council supports the preferred alternative in Reclamation's final environmental impact statement and will continue to work cooperatively with Reclamation and other federal agencies to promote appropriate and cost effective water conservation measures in order to preserve, protect and optimize the wise use of precious western water resources.

U.S. GEOLOGICAL SURVEY'S COOPERATIVE PROGRAM FUNDING

The U.S. Geological Survey's (USGS) cooperative stream gauging program is a long-standing state/federal management partnership, but declining federal matching appropriations and the subsequent continuing loss of gaging stations and basic data is threatening the vitality of the program. This data is critical to water resources decisionmaking. The President's FY97 budget request was insufficient to maintain the existing cooperative program, and both the House and the Senate authorized greater funding. The proposed amount of funding is lower in the House bill, and still less than what USGS has estimated it needs. Within the budget process, USGS submitted their request to the Office of Management and Budget (OMB), which cut it before sending the request to the Congress. While reluctant to appear to call for greater deficit spending, the Council considered and then approved the following letter supporting full funding for the program, even at the expense of other USGS programs.



WESTERN STATES WATER COUNCIL

Creekview Plaza, Suite A-201/942 East 7145 South/Midvale, Utah 84047/(801) 561-5300 / FAX (801) 255-9642

August 19, 1996

The Honorable Slade Gorton
United States Senate
730 Senate Hart Office Building
Washington, D.C. 20510-4701

Dear Senator Gorton:

The Western States Water Council is writing to request your support for placing a high priority on funding for the U.S. Geological Survey's cooperative stream gauging program in the Interior appropriations bill for FY97.

We believe that maintenance of the existing basic water data collection network is one of the most important elements of USGS's programs. The cooperative stream gauging program is the result of a longstanding state/federal partnership in natural resources management. Our member states have worked closely with USGS over the years to establish and to maintain stream gauge networks that provide vital flood warning information and environmental data.

However, costs of maintaining the existing network have been increasing. Declining budget support for basic data collection, as well as increasing operation and maintenance costs, have resulted in reductions in the number of gauges being supported by the cooperative program.

As the Appropriations Subcommittee has recognized, the federal matching funds proposed in the President's FY97 budget are insufficient to maintain the existing cooperative stream gauging program. Further reductions in the network will jeopardize the success of our flood warning and environmental data collection programs, which benefit millions of citizens throughout the nation.

The Council thus encourages the subcommittee to support the full funding needed to maintain this high priority cooperative stream gauging program for FY97, even at the expense of other USGS programs. Please call me at (307) 777-6150 if we can provide any supporting information on the program.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Gordon W. Fassett', is written over a horizontal line.

Gordon (Jeff) W. Fassett, Chair
Western States Water Council

CC: Gordon P. Eaton, Director, U.S. Geological Survey
Jim Souby, Executive Director, Western Governors' Association
Western Governors' Association Staff Council
Western States Water Council Members

WESTERN STATES WATER COUNCIL

**REPORT OF INDEPENDENT ACCOUNTANTS
AND
FINANCIAL STATEMENTS**

June 30, 1996

WESTERN STATES WATER COUNCIL

TABLE OF CONTENTS

	<u>Page</u>
Report of Independent Accountants	43
Financial Statements:	
Combined Balance Sheet - General Fund and Account Groups - June 30, 1996	44
General Fund Statement of Revenues and Expenditures and Changes in Fund Balance Budget and Actual for the Year Ended June 30, 1996	45
Notes to Financial Statements	46 - 48
Accompanying Information:	
Schedule of Changes in General Fixed Assets for the Year Ended June 30, 1996	50
Reports Required by Government Auditing Standards:	
Report of Independent Accountants on Internal Control Structure Related Matters Noted in a Financial Statement Audit Conducted in Accordance With Government Auditing Standards	51 - 52
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	53

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REPORT OF INDEPENDENT ACCOUNTANTS

To the Executive Committee
Western States Water Council

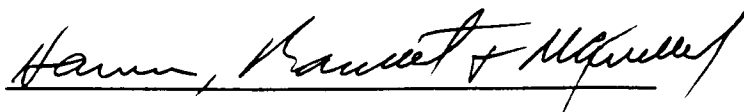
We have audited the accompanying combined balance sheet of Western States Water Council as of June 30, 1996, and the related general fund statement of revenues and expenditures and changes in fund balance - budget and actual for the year then ended. These financial statements are the responsibility of 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, 1996, 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.

In accordance with Government Auditing Standards, we have also issued a report dated August 21, 1996 on our consideration of Western States Water Council's internal control structure and a report dated August 21, 1996 on its compliance with laws and regulations.



Salt Lake City, Utah
August 21, 1996

**WESTERN STATES WATER COUNCIL
COMBINED BALANCE SHEET
JUNE 30, 1996**

ASSETS

	<u>General Fund</u>	<u>Account Groups</u>		<u>Totals (Memorandum Only)</u>	
		<u>General Fixed Assets</u>	<u>General Long-Term Debt</u>	<u>June 30, 1996</u>	<u>June 30, 1995</u>
Assets					
Cash - Note 2	\$ 114,208	\$ -	\$ -	\$ 114,208	\$ 137,045
Account receivable - government agreement	4,842	-	-	4,842	16,787
Prepaid expenditures	1,563	-	-	1,563	1,563
Deposits	1,501	-	-	1,501	1,501
General fixed assets (office equipment)	-	95,261	-	95,261	91,933
Other Debits					
Amount to be provided for payment of compensated absences	-	-	15,792	15,792	12,757
Total Assets	<u>\$ 122,114</u>	<u>\$ 95,261</u>	<u>\$ 15,792</u>	<u>\$ 233,167</u>	<u>\$ 261,586</u>

LIABILITIES AND EQUITY

Liabilities					
Accounts payable	\$ 2,053	\$ -	\$ -	\$ 2,053	\$ -
Payroll taxes payable	-	-	-	-	2,096
Obligations for compensated absences - Note 5	-	-	15,792	15,792	12,757
Total Liabilities	<u>2,053</u>	<u>-</u>	<u>15,792</u>	<u>17,845</u>	<u>14,853</u>
Equity					
Investment in general fixed assets	-	95,261	-	95,261	91,933
Designated fund balance - equipment replacement	19,428	-	-	19,428	16,703
Undesignated fund balance	<u>100,633</u>	<u>-</u>	<u>-</u>	<u>100,633</u>	<u>138,097</u>
Total Equity	<u>120,061</u>	<u>95,261</u>	<u>-</u>	<u>215,322</u>	<u>246,733</u>
Total Liabilities And Equity	<u>\$ 122,114</u>	<u>\$ 95,261</u>	<u>\$ 15,792</u>	<u>\$ 233,167</u>	<u>\$ 261,586</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 FUND BALANCE - BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 1996**

	<u>Budget</u> <u>1996</u>	<u>Actual</u> <u>1996</u>	<u>Variance</u> <u>Favorable</u> <u>(Unfavorable)</u> <u>1996</u>	<u>Actual</u> <u>1995 (For</u> <u>Comparison</u> <u>Only)</u>
Revenues				
Member states' assessments	\$ 293,000	\$ 272,000	\$ (21,000)	\$ 280,000
Bureau of Reclamations contract	-	15,855	15,855	24,841
Newsletter receipts	-	5,275	5,275	-
Symposium fees	-	8,376	8,376	-
Miscellaneous income	10,000	7,761	(1,628)	-
Interest income	<u>-</u>	<u>11,743</u>	<u>11,743</u>	<u>12,351</u>
Total Revenues	<u>303,000</u>	<u>321,010</u>	<u>18,621</u>	<u>317,192</u>
Expenditures				
Current				
Salaries	176,963	177,747	(784)	196,910
Travel	21,957	23,321	(1,364)	20,143
Payroll taxes and employee benefits	72,907	68,126	4,170	76,627
Printing and reproduction	9,580	13,341	(3,761)	9,217
Rent	24,183	24,166	17	23,486
Freight and postage	10,525	10,823	(298)	8,546
Telephone	5,734	5,500	234	6,875
Utilities	2,772	2,386	386	2,374
Maintenance contracts	2,408	4,322	(1,914)	1,108
Office supplies	5,052	5,661	(693)	2,636
Reports and publications	6,237	3,383	2,854	5,450
Meetings and arrangements	5,880	1,700	4,180	6,065
Accounting	2,305	2,300	5	2,200
Insurance	1,070	1,108	(38)	1,041
Contingencies	5,900	2,808	3,092	5,207
Pension management	1,244	1,158	86	1,128
Capital outlay	<u>8,045</u>	<u>7,899</u>	<u>230</u>	<u>1,697</u>
Total Expenditures	<u>362,762</u>	<u>355,749</u>	<u>6,402</u>	<u>370,710</u>
Excess of Expenditures Over Revenues	(59,762)	(34,739)	25,023	(53,518)
Fund Balance - Beginning of Year - Note 6	<u>154,800</u>	<u>154,800</u>	<u>-</u>	<u>208,318</u>
Fund Balance - End of Year	<u>\$ 95,038</u>	<u>\$ 120,061</u>	<u>\$ 25,023</u>	<u>\$ 154,800</u>

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

**WESTERN STATES WATER COUNCIL
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 1996**

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.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from those estimates.

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, 1996 and 1995. 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, 1996 and 1995, was \$87,923 and \$ 95,276, 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 accrues interest at the same rate as the Investment Fund. The balance in the Equipment Replacement Fund at June 30, 1996 and 1995 was \$19,428 and \$16,703, respectively.

NOTE 2--(CONTINUED)

At year end, the carrying amount of the Council's bank deposits was \$ 6,766 and the bank balance was \$41,033. All of the bank balance was covered by federal depository insurance. Collateralization of deposits is not required by state statute.

NOTE 3--LEASE COMMITMENTS

The lease agreement for the Council's office expires March 1, 1997. Monthly payments are currently \$1,982.

The following is a schedule of future lease payments at June 30, 1996.

1997	<u>\$ 15,856</u>
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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 20% a year, beginning with the second full year of service until the member is fully vested after 6 years of service.

The Council contributes to the Plan an amount equal to 17% of each plan member's gross wages 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, 1996 and 1995, were \$27,531 and \$24,735, 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 8.5 hours per full month of service rendered for the first 5 years. The next 5 years accrues at the rate of 11 hours per month and for years thereafter the rate is 13 hours per month. The number of unused vacation days, up to 40, carries forward to the beginning of the next calendar year.

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.

ACCOMPANYING INFORMATION

**WESTERN STATES WATER COUNCIL
SCHEDULE OF CHANGES IN GENERAL FIXED ASSETS
FOR THE YEAR ENDED JUNE 30, 1996**

	<u>1996</u>
Investment in General Fixed Assets - June 30, 1995	\$ 91,933
Office equipment additions	7,621
Office equipment retirements	<u>(4,293)</u>
Investment in General Fixed Assets - June 30, 1996	<u><u>\$ 95,261</u></u>

HANSEN, BARNETT & MAXWELL

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CERTIFIED PUBLIC ACCOUNTANTS

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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, 1996, and have issued our report thereon dated August 21, 1996.

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.

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.

In planning and performing our audit of the general-purpose financial statements of Western States Water Council, for the year ended June 30, 1996, we obtained an understanding of the internal control structure. With respect to the internal control structure, 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 in order to determine our auditing procedures for the purpose of expressing our opinion on the general-purpose financial statements and not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion.

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 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 operations that we consider to be material weaknesses as defined above.

We also noted other matters involving the internal control structure and its operation that we have reported to the management of Western States Water Council, in a separate letter dated August 21, 1996.

This report is intended for the information of the executive committee and management. However, this report is a matter of public record, and its distribution is not limited.

Hamm, Rausch & McQuinn

August 21, 1996

HANSEN, BARNETT & MAXWELL

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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, 1996, and have issued our report thereon dated August 21, 1996.

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, the objective of our audit of the general-purpose financial statements was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported herein under *Government Auditing Standards*.

This report is intended for the information of the executive committee and management. However, this report is a matter of public record and its distribution is not limited.

A handwritten signature in dark ink, appearing to read "Hansen, Barnett & Maxwell", is written over a horizontal line.

August 21, 1996

RULES OF ORGANIZATION¹²

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.

¹²The 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 - Policy Coordination and Deactivation

With regard to external positions adopted after being added to the agenda of the meeting by unanimous consent, such external policy positions shall be communicated to the member governors of the Western Governors' Association (WGA) and the WGA Executive Director for review. If after 10 days no objection is raised by the governors, then the policy position may be distributed to appropriate parties. In extraordinary cases, these procedures may be suspended by the Executive Director of the WGA, who will consult with the appropriate WGA lead governors before doing so.

Policy positions will be deactivated three years after their adoption. The Executive Committee will review prior to each regular meeting those policy statements or positions due for sunset. If a majority of the Executive Committee members recommend that the position be readopted by the Council, then such position shall be subject to the same rules and procedures with regard to new positions that are proposed for Council adoption.

Article XII - 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 XIII - Meetings

The Council shall hold regular meetings three times each year 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 XIV - 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 XV - 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.

MEMBER STATES and MEMBERSHIP⁺

→ Insert HAWAII (from pg. 3)

ARIZONA

- ✓*Governor Fife Symington; 1-91
- ✓**Rita Pearson; 6-91
- ✓Michael Brophy; 6-91
- ✓Edward Z. Fox; 7-91
- ✓†Russell Rhoades; 8-95
- ✓C. Laurence Linser (Alt.); 6-88

CALIFORNIA

- ✓*Governor Pete Wilson; 1-91
- ✓**David Kennedy; 10-83
- ✓David G. Kelley; 1-83 to 7-83
reappointed 3-84
- ✓Thomas S. Maddock; 5-94
- ✓Roderick E. Walston (Alt.); 1-86
- ✓Edward C. Anton (Alt.); 2-91
- ✓James M. Stubchaer (Alt.); 6-93

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

*Ex-Officio Member

**Executive Committee Member

†Council members denoted by this symbol are listed on this membership list by virtue of their office, pending receipt of a letter of appointment by their Governor.

IDAHO

- ✓*Governor Phil Batt; 1-95
- ✓**Karl Dreher; 7-95
- ✓Wallace N. Cory; 3-95
- ✓Sherl Chapman; 10-95
- ✓Wayne T. Haas (Alt.); 10-83
- ✓J.D. Williams (Alt.); 5-91
- ✓R. Keith Higginson; 10-87 to 7-95
- ✓Gene M. Gray; 10-83 to 7-95
- ✓Joe Nagel; 3-91 to 3-95

NEVADA

- ✓*Governor Robert J. Miller; 1-89
- ✓**Roland D. Westergard; 5-68
- ✓Joseph E. Dini, Jr.; 7-83
- ✓Peter G. Morros; 3-91
- ✓Janet Rogers (Alt.); 5-94
- ✓B. Michael Turnipseed (Alt.); 8-96

NEW MEXICO

- ✓*Governor Gary Johnson; 1-95
- ✓**Thomas C. Turney; 7-95
- ✓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 to 8-96
- ✓Tom W. Davis (Alt.); 8-96

⁺ The date after 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.

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 John Kitzhaber; 1-95
- ✓**Martha O. Pagel; 6-92
- ✓Steve Sanders; 7-90

SOUTH DAKOTA

- ✓*Governor ^{William J.} Bill Janklow; 1-95
- ✓**Nettie Myers; 5-95
- ✓John Hatch; 6-88
- ✓Steve Pirner; 6-88
- ✓John Guhin (Alt.); 6-88
- ~~Reese Peck; 6-88 to 5-95~~

TEXAS

- ✓*Governor George W. Bush; 1-95
- ✓**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 to 11-95~~
- ✓*David Montagne (Alt.); 9-92

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

WYOMING

- ✓*Governor Jim Geringer; 1-95
- ✓**Gordon W. Fassett; 3-87
- Myron Goodson
6-65 to 3-83
reappointed 10-86
- William L. Garland (Alt.); 10-90 to 11-96
- Tom Davidson; 10-96
- Dennis Hemmer (Alt.); 10-96

ASSOCIATE MEMBER STATES

ALASKA

- ✓*Governor Tony Knowles; 12-94
- +**Leonard D. Verrelli; 2-95
- +Jules Tileston; 2-95
- ~~Mead Treadwell (Alt.); 10-91 to 12-94~~ + Christopher Estes; 11-96

HAWAII

- *Governor Ben Cayetano; 12-94
- +Michael D. Wilson
- +Manabu Tagomori; 2-88
- Thomas Arizumi; 4-96

MONTANA

- ✓*Governor Marc Racicot; 1-93
- ✓**Gary Fritz; 10-83
- ✓Steve Pilcher; 4-88
- ✓Donald D. MacIntyre (Alt.); 2-85
- ✓Harley R. Harris (Alt.); 6-91

WASHINGTON

- ✓*Governor Mike Lowry; 1-93
- ✓**Carol Fleskes; 4-94
- ✓Tom McDonald; 11-91
- ✓Michael Llewelyn (Alt.); 11-91

COUNCIL MEMBERS
at Coronado, California Meeting - November 22, 1996

Front Row: Roland Westergard, Francis Schwindt, Rita Pearson, Sherl Chapman

Second Row: Mike Turnipseed (???), Mike Brophy, Karl Dreher, Ken Slattery

Third Row: Craig Bell, Wayne Cunningham, Fred Pfeiffer, Myron Goodson, Ed Anton, Jeff Fassett

Fourth Row: Herb Dishlip, Jim Stubchaer, Hal Simpson, Martha Pagel

Fifth Row: Larry Anderson, Janet Rogers, Don Ostler, John Baker

Sixth Row: Dave Sprynczynatyk, Chuck Lile, Dave Kennedy, John Hatch, Cheryl Redding

Seventh Row: Tony Willardson

