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40 Years of Change: The Western State Water Council

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The Western Governors' Conference created 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 Council has since provided a unified voice, advising western governors on water policy issues.

Earlier, the Western Interstate Water Conference, representing western state water resources research institutes, adopted a resolution at meetings in Las Vegas, Nevada on September 16-17, urging the western governors to establish a task force composed of representatives of each of the western states as soon as possible to consider the formation of a permanent regional water commission. At its 1964 Annual Meeting in Cheyenne, Wyoming, on November 15-19, the Western Conference of the Council of State Governments approved an essential identical resolution, which reads in part: "The future growth, prosperity and well-being of the West depend upon the maintenance of a strong and vigorous economy...threatened by critical water shortages. There is a need for an accurate appraisal of present and future water requirements as recognized by each state of the West, and for development of a comprehensive plan for equitably resolving the problems of future supply and distribution of water resources...."

The Conference called for the establishment of a Western Water Resources Task Force, composed of representatives of each of the western states to consider the formation of a regional water commission and make recommendations concerning its role, structure and authority. Of note, it explicitly stated: "That passage of this resolution should in no way defer or delay the licensing, authorization or construction of any project." Glen Canyon Dam had been completed, and other Colorado River Storage Project participating projects were being considered, along with authorization of the Central Arizona Project, Southern Nevada Water Project, the Garrison Diversion Unit of the Missouri River Basin Project, and Grand Coulee Dam's third powerplant.

Undoubtedly, consideration of federal legislation, the Water Resources Planning Act, also had an influence on the governors' decision to create the Western States Water Council. It was signed into law on July 22, 1965. Its legislative introduction stated that its purpose was: "To provide for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources, through the establishment of a water resources council and river basin commissions and by providing financing assistance to the states in order to increase state participation in such planning."

The Western Water Resources Task Force deliberations crystallized on a few main questions. Was a new organization needed to coordinate regional efforts? If so, what should be its nature and functions? How could the problems associated with the uneven development of the West, and proposed regional water transfers best be addressed, given the political necessity of protecting areas of origin from adverse effects of exporting water?

The first official meeting of the Council was held on the south shore of Lake Tahoe, at Stateline, Nevada on August 3, 1965. Nevada Governor Grant Sawyer, Chairman-elect of the Western Governors Conference, spoke: "We are assembled here today to give thought and deliberation to the most important aspect of the economy and growth of not only the Southwest, but the entire western United States.... A great agricultural, industrial, and recreational economy has been developed in our western states. Today we stand on the threshold of an expanding economy, greater than could possibly have been foreseen as late as ten years ago. However, ...one grave danger lies in the path...water. In many areas in the West our economy is being maintained by the depletion of our groundwater reserves. Those supplies are dwindling very rapidly at the present time." (Sawyer 1965)

He continued, "Great water supply projects have already been built in the West, but in nearly all cases they are local in scope. We now must take the next step, that is westwide water development. There is an abundance of water available in this part of the country now wasting to the sea. It needs only storage and transportation facilities to move it from areas of surplus to areas of deficiency. Recently, several plans have been advanced to accomplish this movement of vast amounts of water. We in the water-poor states make loud noises about our desperate need for water, and we promote regional water plans to meet those needs.... Justifiably, those living in areas of abundant water supplies look with alarm upon any plan of any outsider to take the waters away from their areas. So the time has come for you as legislators, educators, lawyers, engineers, geologists and economists in the business of water conservation to conduct yourselves as statesmen and sit down around the table to work out the best plans to meet the needs of the entire West. After many years of negotiations, arguments, misgivings, political battles, and in the end, cooperation and understanding, the entire West has come to realize the benefits that will flow... by combining all the power resources available to us. The holds true for all our water and land resources.... We must have iron-clad guarantees devised and put into effect to assure that the need of the exporting area will be fully met for all time." Further, in calling for an assessment of needs and resources, he mentioned research into desalination of sea water for coastal areas. "Surely, any long-range plans of water development must include this potential source of water -- a well that will never run dry."

He concluded, "A guiding hand is a necessary instrument in developing the water needed to meet our expanding economy, and this group [the Western States Water Council] has been designated to provide that guidance." With some urgency he continued, "We must act as fast as we can, for I guarantee, if we cannot get this moving among the states, it is going to be done, and it may be done at a level which may not take into account public interest as we see it. If we cannot work together as combined states, we certainly cannot complain if someone else, specifically the federal government, resolves our problems for us. We cannot complain about federal control when it is invited by our own inaction." He expressed the governors' desire that

the organization be a “stable, long-lasting” Council of “vigorous action.”

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.

Council membership and associate membership status are determined based on a request from the governor. 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. In 1991, **HAWAII** requested and received membership, though it is longer associated. In 1999, **OKLAHOMA** requested and received membership. In 2000, both **KANSAS** and **NEBRASKA** joined the Council at the request of their respective governors. Council membership is automatically open to all member states of the Western Governors’ Association. Other states may be admitted by a unanimous vote of the member states. There are now eighteen states.

Associate membership has also been granted states exploring the benefits of membership, experiencing financial hardship, or otherwise temporarily unable to maintain full membership. For a brief period, **MINNESOTA** enjoyed associate membership.

Each member state’s governor is an ex-officio 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.

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. The most recent meeting was

held last week in Newport, Oregon. Guest speakers are scheduled according to the relevant subjects to be considered at each meeting. The Council meetings are open to the public. The meeting minutes were transcribed verbatim for many years, and recordings are still made, but the proceedings are now summarized from staff notes. A brief summary of these and other meetings sponsored by the Council are available as part of the Council's annual reports, which include Council positions and resolutions, and a discussion of other important activities and events.

The Council's early activities were prompted by a preoccupation with proposed inter-basin and inter-state water transfers envision to meet the needs of a rapidly growing population and its water and power needs. Population projections extrapolated post-World War II trends, and were overstated. Still the availability of water to sustain regional economic growth and development in the West were and continue to be important. In 1965, Utah Governor Calvin Rampton observed: "Someone has said that the trouble with water is "people." We in the West, with vast areas that are little explored and sparsely populated, often fool ourselves into thing that the population explosion doesn't concern us.... [F]igures indicate that the West is going to increase about 70% in population and food requirements by 1975." (Rampton 1965)

Similarly, others addressed the implications of water development and economic growth. James Fesler observed, "Water, partly because of its fluid gold quality for agricultural development in the arid West, and partly because of its white coal quality as a yielder of hydroelectric power for industrial development in underdeveloped regions, acquires a strategic significance as a convenient lever with which to plan and affect economic growth." (Fesler 1965)

Ernest Engelbert, said: "Inasmuch, however, as water has been a strategic resource for fostering western growth, the question must also be raise whether the development and distribution of water should be used as a means...to redirect growth: Should policies be adopted which would encourage people to migrate to the pacific Northwest where water resources investments may not be so great as in the Pacific Southwest? In the face of some projections showing a national population of 400 million by the year 2020, should we not seriously consider distributing water to some of the West's semi-arid open spaces...for the purpose of planning new cities? To talk about using water as a commodity to limit or redirect population and economic expansion is not popular in a nation where the democratic ethic has fostered the concept of unlimited growth." (Engelbert 1965)

The Council's initial program of action included drafting specific assumptions and criteria for evaluating regional water development plans, including interstate and interbasin plans. These included engineering and economic feasibility criteria, political responsibility criteria, and legal considerations, together with population projections. However, these were never adopted, and proved to be a divisive exercise that left many wondering about the future of the Council. A more general approach to developing principles for comprehensive western state water planning was more successful. An extensive listing of proposed federal projects and studies was also compiled, along with a list of state water resource agencies and state water development plans. Principles for protecting areas of origin and water exports were discussed.

Under the direction of its members, in 1967 Council staff prepared a "self-analysis," in response to suggestions that the Council was achieving little. In part, the study stated, "The

purpose of the Council is so broad and vital -- and the future potential capabilities so real and flexible -- that judgement as to effectiveness and success should not be measured in terms of immediate or spectacular results.... The real work of achievement may come several years from now, and possibly in activities not presently conceived, contemplated or emphasized.”

The Western States Water Council has worked for nearly 40 years towards ensuring water is available to meet our myriad needs by promoting appropriate western water development, management and conservation. Demands on western water supplies continue to grow, along with our population, traditional uses, and the recognition and value placed on ecological needs, including instream flows for fish and wildlife, threatened and endangered species, recreation and other uses. Conflict between uses are increasing. The West is now struggling with many of the same problems envisioned by those interested in the organization of the Council.

Working in cooperation with the Western Governors’ Association and in accordance with the governors’ espoused Enlibra principles, the Council promotes collaborative approaches to resolving conflicts related to scarcity and changing societal values placed on water -- while advocating the role of the states in allocating, managing, protecting and balancing the value of water uses among users.

The importance of efficient water use for all purposes is clear. The Council has sponsored a number of workshops to promote water conservation, and has compiled information on member states’ water conservation policies and programs. The Council is a member of the Bridging-the-Headgate Partnership, along with federal agencies, water users and natural resource districts and related interests, which work cooperatively to find local solutions to pressing water problems and promote water conservation on and off the farm. However, water conservation alone is inadequate to meet all present and future needs. The Council also serves as a forum for the discussion of the need for additional storage, both on and off-stream storage, and aquifer storage and recovery projects. The Council is also interested in other opportunities for augmenting existing water supplies, using as appropriate, proven and new technologies. Water reuse is the topic of one recent Council report. Desalination is an area of growing interest.

This fall the Council is sponsoring an extensive workshop on many of these topics and the role of various water development and conservation programs in meeting future water needs.

In order to have the information necessary for sound decisionmaking, the Council over the years has actively approached the Congress and federal agencies responsible for water resources data collection activities in support of adequate program funding. Council member states and political subdivisions have long been partners in cooperative federal water and climate data collection and analysis programs. In the West, accurate and timely data on precipitation, temperature, soil moisture, snow depth, snow water content, stream flow, and similar information is vital. This information is used by federal, state, tribal, and local government agencies, as well as private entities and individuals, to forecast flooding and drought and to project future water supplies for agricultural, municipal, and industrial uses, as well as for hydropower production, recreation, and environmental purposes, such as for fish and wildlife management and for endangered species needs. Without timely and accurate information,

human life, health, welfare, property, and environmental and natural resources are at considerably greater risk of loss. Over a number of years, federal appropriations have not kept up with increasing program costs and/or matching non-federal contributions, and this erosion in funding threatens the availability of vital information. Therefore, the Council has asked for adequate and consistent federal funding to maintain, restore, modernize, and provide for the continued targeted expansion of snow survey and streamgaging programs.

Once a year, the Council also brings together state water information management system personnel to discuss present and future data needs and share experiences with hardware and software in meeting different requirements to provide enhanced water management services to the public. More and more, the public can access information, apply for permits, monitor many water resource parameters, particularly during drought, and participate in making water resources management decisions through the internet.

Further, the Council sponsors an annual water management symposium of different topics, which brings together state and other experts to share success stories and challenges. The Council sponsors, biannually with the Native American Rights Fund, a symposium on the various processes necessary for the settlement Indian water rights claims. The Council is part of an ad hoc group that supports federal legislation to implement such settlements, which has held a series of Congressional workshops. The Council has also prepared a report on non-Indian federal water right claims, including claims for environmental purposes.

Of particular note, the Council has recently worked to identify and implement actions to smooth the rippling effects of the Endangered Species Act (ESA) on western water management, water law and water rights. ESA-related concerns and considerations have multiplied westwide. In 2001, the Council reviewed the impact of the ESA on water resources management in the Southwest and Northwest, with workshops in Albuquerque and Seattle. In 2002, a workshop in Omaha addressed issues in the Plains States. While the Council supports legislative changes proposed in the past by western governors, the future prospects for ESA reauthorization are uncertain. Meanwhile, conflicts continue, highlighted in the Klamath Basin, Rio Grande, Tulare Lake, Methow and Snake River cases. The courts are redefining ESA responsibilities, federal agency responsibilities and private property rights related to water.

The Council has focused its efforts on the impact of the ESA on the exercise and administration of state water rights and authorities. In the absence of legislation, federal administrative reforms have been promoted with mixed success. State initiatives with respect to species and habitat conservation plans have also fostered some successes, but have also met with disappointments. In order to further profitable discussions, the Council in cooperation with representatives of the Fish and Wildlife Service, NOAA Fisheries and state fish and wildlife representatives, has drafted a proposed protocol outlining principles for use by states and federal agencies in attempting to accommodate the water-related needs of endangered and threatened fish and other aquatic species and the people of the West.

Meeting water supply challenges in the West takes place within a context of a constantly changing legal, political and economic landscape. To solve the region's "new" water challenges -- within the limits of water conservation and the constraints of traditional water supply

enhancement through the construction of dams and reservoirs -- many see water transfers as the most probable means to accommodate growing and changing water demands. While win-win scenarios are possible, they can be difficult to achieve. Third-party impacts must be considered, including impacts on rural communities and the environment. Protecting the public interest is part of the law regarding new applications in virtually every western state. However, several states do not apply it in the case of water transfers, and the application of a public interest standard can be problematic sometimes given the lack of specific direction from state legislatures. And yet it can be a powerful tool in determining the future of water use in a given state. The Council has held extended discussions on the topics of water transfers, water markets, water banking and the public interest.

Through these and other activities, the Council continues working towards providing a sound basis for ensuring that “adequate quantities of water of suitable quality” continue to be available for “the future growth and prosperity of the western states,” their economies and the environment.

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For additional information see:

<http://www.westgov.org/wswc>

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