

## 40 Years of Change: The Western States 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 states that "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 from each of the western states to consider the formation of a permanent regional water commission. At its 1964 Annual Meeting the Western Conference of the Council of State Governments approved an essentially 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 to make recommendations concerning its role, structure, and authority.

Of note, it explicitly stated "[t]hat passage of this resolution should in no way defer or delay the licensing, authorization or construction of any project." Glen Canyon Dam had recently been completed, and authorization of other Colorado River Storage Project participating projects were being considered, along with authorization of the Southern Nevada Water Project, the Garrison Diversion Unit of the Missouri River Basin Project, and Grand Coulee Dam's third power plant.

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 same holds true for all our water and land resources.... We must have iron-clad guarantees devised and put into effect to assure that the needs 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."

Sawyer 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 issues and 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 west-wide 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 has been associated longer. 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 member states.

Associate membership has also been granted to 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 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. Moreover, since 1974, the Council has published a weekly newsletter, *Western States Water*.

The Council's early activities were prompted by a preoccupation with proposed inter-basin and interstate water transfers envisioned to meet the water and power needs of a rapidly growing population. 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 thinking 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 1966).

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 raised 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 1966).

The Western States Water Council has worked for nearly 40 years towards ensuring water is available to meet 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 stakeholders. The importance of efficient water use for all purposes is clear. However, water conservation alone is inadequate to meet present and future needs. The Council also serves as a forum for the discussion of additional storage and other opportunities for augmenting existing water supplies, using appropriate, proven and new technologies.

In order to have the information necessary for sound decision-making, the Council over the years has approached 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 estimate 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 the needs of endangered species. 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 costs and/or non-federal contributions; 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.

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 throughout the West. 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, and the Methow and Snake Rivers cases. The courts are redefining ESA requirements, 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. In the absence of legislation, federal administrative reforms have been promoted with mixed success. State initiatives concerning species and habitat conservation plans have fostered some successes, but have also met with disappointments. In pursuit of 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 states and federal agencies to use in accommodating 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 the 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 due to the lack of specific direction from state legislatures. 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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