

# **Committee on Resources, Subcommittee on Water & Power**

[water](#) - - Rep. Ken Calvert, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6204 - - (202) 225-8331

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## **Witness Statement**

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**Testimony  
presented by  
Michael J. Brophy, Chairman  
Western States Water Council  
before the  
Water and Power Subcommittee  
House Resources Committee  
March 27, 2001**

My name is Michael Brophy. I am Chairman of the Western States Water Council. The Council is comprised of representatives appointed by the governors of eighteen western states. The Council has been charged with fostering interstate cooperation in water resources and protecting vital state prerogatives with regard to the management of water resources in the West. While necessarily expressing personal views in my testimony, I will rely heavily on positions of the Western States Water Council consistent with the request by the Subcommittee. To my written testimony, I will also append for the record positions of the Council for your reference.

The Subcommittee has asked that I address the "Current Situation of Water in the Western United States from the Perspective of the Western States Water Council." This invitation is particularly appropriate, because states play the pivotal role in both water quantity allocation and water quality protection in the West. Further, a recent survey of our member states provides a basis for my remarks.

I wish to begin by emphasizing that in the arid West, providing adequate water supplies to meet future demands continues to be a priority. This priority is underscored by the current extent of drought in many areas of the West. Streamflows in much of the West are expected to be less than 70% of average, with the entire Columbia River Basin expected to produce the second driest year in recorded history. These drought conditions are a major factor in the current energy crisis. Western states are particularly cognizant of the water needs of rural communities. They also remain concerned about the claims being asserted by Indian tribes to water resources and the potential of such claims to disrupt existing rights in non-Indian communities, underscoring the desirability of cooperative efforts with the tribes and their federal trustee in addressing tribal needs. In this regard, the Council is active with other members of the so-called Ad Hoc Group on Indian Water Rights in encouraging the settlement of Indian land and water right claims, particularly with regard to identifying an alternative mechanism for funding such settlements. A recent letter by the Ad Hoc Group further explaining this effort is attached to my written testimony.

The federal government also has claims to substantial amounts of water in the West on its own behalf, given the extent of federal land ownership. These claims are most often presented within the context of state

general stream adjudications, where the water rights of all claimants in a given stream system can be ascertained. In this regard, this Congress should address the inequity that now results from exempting the federal government from paying any filing fees or costs associated with these adjudications. I have attached the Council's position which explains our support for a remedy, now before the Congress in the form of H.R. 705.

While virtually every western state needs additional supplies to meet growing consumptive use demands, western states also recognize the need for existing water infrastructure rehabilitation. Further, they also recognize as a significant challenge, the need to sustain instream values generally, and specifically for maintaining and enhancing water quality, and for protecting endangered species. The West is often subject to wide swings in water supply. Thus, states identify drought planning and response as a priority problem, and similarly flag flood planning and response. Overlaying many of the above challenges are legal and institutional conflicts facing western states, involving federal/state relationships, conflicts between states, and disputes among water users, among others.

To meet these increasing demands, several states are considering additional surface reservoirs, which, for the most part, will be smaller in scale than the large projects of the past, more innovative, environmentally sensitive, and financed primarily from state and local resources. The reallocation of water from existing uses to other uses will likely accelerate, chiefly from agricultural uses to other uses, primarily municipal. While states will often facilitate such transfers to meet specific water supply and environmental challenges, in some cases they may restrain market transfers, not only to protect third parties, but also the public interest in general.

While recognizing the limits of water conservation in providing "new" water and additional caveats relating to the site-specific impacts of water conservation measures, states are carefully considering opportunities to "stretch" existing supplies of water through more efficient use, reuse, and reservoir reoperation (prior to the development of new storage facilities). States are further exploring opportunities to cost-effectively manage ground water recharge, recognizing it as a potentially significant storage alternative, and some states are further pursuing the potential of desalinization and weather modification to augment existing supplies.

As the emphasis on the importance of water conservation increases, states are developing and adopting a number of programs to encourage such measures as low water-use landscaping, and water rates that encourage conservation in urban areas, and development of conservation plans and incentives and leak detection programs in rural/agricultural settings. The reuse of wastewater effluent is also increasing. Many communities are currently reusing effluent for landscape and agricultural irrigation. To facilitate a reallocation of existing uses to augment supplies in areas of relative scarcity, some states have established water banks, while others have adopted measures to streamline the transfer process.

Western states have made innovations in their laws and institutions in order to augment and protect instream flows and to incorporate consideration of the public interest in their water right application and transfer processes. States are also endeavoring to incorporate innovations in their water quality programs, particularly regarding non-point source pollution. States have adopted various measures to deal with the problem of ground water depletion. States have also strengthened their capacity to deal with floods and drought. Innovations to improve information on water availability and use are common.

States in the West have recognized and moved to enhance the potential value of local watershed coordination initiatives. As conflicts over water use intensify in an era of both increasing and changing demands, states are also addressing the need to deal more effectively with these disputes. For a variety of

reasons, states are also increasing their emphasis on maintaining and enhancing the environment. These reasons include, but are not limited to, federal mandates such as the Endangered Species Act and the Clean Water Act.

Given the diminishing federal resources available to carry out the requirements of these and other federal acts, and the concurrent increase in the state burden for environmental protection, states urge that increased flexibility be given regarding their implementation, so that states and others can tailor programs and prioritize resources to meet real needs. Streamlining federal permit processes is also important. The federal government should encourage innovations, which frequently involve market incentives and non-regulatory tools, as they have often been found to work more effectively than top-down regulation. The Council has, for example, urged flexibility in implementing the Total Maximum Daily Load program under the Clean Water Act. Further, the federal government continues to have an important role with regard to disaster response and other mitigation associated with droughts and floods.

There is a significant need for the federal government to maintain and rehabilitate its existing water storage infrastructure, and to work with states and others in providing reliable water data. In particular, as Congress considers the budget, we urge it to recognize the serious need for adequate and consistent federal funding to maintain, restore, modernize, and provide for targeted expansion of NWCC's SNOTEL System and Soil and Climate Analysis Network (SCAN), and USGS's Cooperative Streamgaging Program and National Stream Information Program, with a primary focus on coordinated data collection and dissemination. I have appended a position recently adopted by the Council explaining the western states' position in support of these programs.

Finally, I wish to reiterate the importance of the long-held Congressional policy of deference to states regarding water management. States are moving to address the challenges they face in water resources. Federal preemption of state authority is not the way to address the complex challenges associated with water management in the West. Rather, what is necessary is encouraging partnerships between the state and federal agencies in the development and implementation of key policies, supporting the pivotal role states must play in addressing these challenges, and affording flexibility for ongoing innovation at the state level in order to effectively carry out this role. Thank you.

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