

COLORADO WATER CONGRESS POLICIES

GENERAL POLICY OBJECTIVE

The Colorado Water Congress exists to support active leadership and the necessary funding for the formulation, development, construction, and operation of water resource development projects required for beneficial use by the people of Colorado and for the protection of Colorado's water resources.

POLICIES RELATED TO STATE ISSUES

1. STATE WATER POLICIES & PRINCIPLES

The Colorado Water Congress supports Colorado's constitution, statutes and case law as state water policy.

2. GROWTH AND WATER RESOURCES

To oppose any legislation, initiative, or administrative action which would control growth through the reallocation of water resources or through limitations upon water development. To support efforts to meet the long-term demands of population growth in a manner that minimizes the reallocation of water from existing beneficial uses.

3. INTERSTATE COMPACTS

The Colorado Water Congress supports:

- A. The protection of the nine interstate water compacts by state and local officials; and
- B. The reconfirmation that water apportioned pursuant to interstate compacts is held by the individual states in the amount apportioned by the compacts, and the law of the river.

4. WATER CONSERVATION PROGRAM

- A. The Water Congress strongly supports water conservation and the careful management and use of the state's water resources; and
- B. Urges the state and local governments to fulfill their responsibility for water conservation planning and implementation; and

- C. Opposes the federalization of water conservation programs, with special reference to those which attempt to reallocate water resources through federal mandates.

- D. Encourages water conservation that does not expand water rights.

5. INUNDATION OF INSTREAM FLOWS

The Colorado Water Congress urges the Colorado Legislature and the Colorado Water Conservation Board to clarify that the inundation of instream flow rights held by the CWCB does not constitute injury thereto.

6. PUBLIC TRUST DOCTRINE

Colorado's prior appropriation doctrine has proven its ability to accommodate, protect and balance water for consumptive use and environmental purposes. The public trust doctrine conflicts with the prior appropriation doctrine and should be vigorously opposed.

7. TRANSFERS OF WATER WITHIN COLORADO

- A. The Colorado Water Congress urges all citizens and the legislature to allow the movement of water to places of beneficial use consistent with existing legal principles and a free market in water.
- B. Supports collaborative efforts that provide benefits to both contributing and receiving watersheds.
- C. Promotes short-term water transfers that maximize water availability during temporary water shortages.

8. APPOINTMENT TO STATE BOARDS AND COMMISSIONS

The Colorado Water Congress urges the legislature and the governor of the State of Colorado to ensure that the appointment and confirmation process is timely and statutorily sound.

9. ENDANGERED & DECLINING SPECIES

The Colorado Water Congress supports funding and other efforts for the preservation of habitat in order to prevent the decline of native species. The Colorado Water Congress also supports the state's participation in federal endangered species

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cooperative agreements and recovery programs and therefore urges continued funding as appropriate.

10. CONSTITUTIONAL REFORM

The Colorado Water Congress supports an effort to amend the Constitution of the State of Colorado to raise the standards for amending the Constitution.

11. ADEQUATE APPROPRIATIONS FOR STATE AGENCIES

The Colorado Water Congress supports sufficient appropriations and adequate fee-based revenue to permit the State of Colorado to continue water resources administration, protection, development and conservation¹

12. INFRASTRUCTURE

The Colorado Water Congress urges consideration of an amendment to the Colorado Constitution:

- A. Which allows the state to incur debt to finance the rehabilitation, protection and construction of infrastructure and to meet capital requirements for environmental needs, including monies for highways, clean water, dam safety, environmental and water source protection, safe drinking water, transportation, intra-state air service, rural railroad service, prisons and universities; and
- B. Which provide assurances that any funds raised by state bonding authority will inure to the benefit of citizens located in all geographical areas of the state.

13. WATER PROJECT FUNDING

The Colorado Water Congress urges the legislature to pass legislation that maximizes the ability of water funding entities such as the Colorado Water Conservation Board and Colorado Water Resources and Power Development Authority to finance water projects.

¹ In regard to what constitutes 'adequate' and/or 'sufficient' funds or appropriations as used in this resolution, it shall be the responsibility of the CWC Committees to determine what amounts constitute 'adequate' and 'sufficient' funds' and furthermore, CWC Committees shall also determine the prioritization of effort by CWC on behalf of the above state agencies.

POLICIES RELATED TO THE FEDERAL GOVERNMENT

1. PROTECTION OF STATE WATER INTERESTS

The Colorado Water Congress urges

- A. The members of the Colorado Congressional delegation to oppose any proposed federal law and any administrative action relating to federal law, which will impede or impair the allocation and beneficial use of the waters of the State of Colorado, pursuant to the laws of the state, and rights thereunder; and
- B. Congress to adopt clarifying provisions in all environmental legislation, including the reauthorization for the Clean Water Act, which recognize the importance of water use and development to the economic well-being of the people in the water-short areas of the West and to reconfirm the intent of Congress that state law shall control and determine the allocation of all water use within the states;
- C. Congress and federal agencies, in adopting and implementing federal programs, respect local land use decision making authority; and
- D. The Board of Directors to take whatever actions it finds necessary or desirable to protect the water users of the State of Colorado against intrusions into state and local control of water resources.

2. SAFE DRINKING WATER

- A. The Colorado Water Congress strongly endorses the continuing effort to keep drinking water safe and to that end urges state and federal legislators to:
- B. Support safe drinking water and the protection of public health;
- C. Support reasonable regulations calculated to encourage safe drinking water including standard setting for contaminants which takes account of local conditions in assessing health risks;
- D. Re-examine SDWA regulations where the costs of meeting such regulations outweigh the benefits of the regulation;

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- E. Ensure that no contaminant level is established nor standard adopted unless it is based on proven science including generally accepted statistical methods;
- F. Encourage Congress to continue to appropriate federal money to the state safe drinking water revolving loan fund in order to accomplish the purposes and goals of the program developed pursuant to the SDWA; and
- G. Encourage EPA to permit the use of the State Revolving Fund for the purchase of water rights and the rehabilitation of dams and reservoirs as eligible activities.

3. REAUTHORIZATION OF THE CLEAN WATER ACT

The Colorado Water Congress urges Congress and the Administration to incorporate the following principles in the reauthorization of the Clean Water Act:

- A. No provision of the Clean Water Act or any state interpretation thereof shall abrogate or impair state water allocation systems or impair water rights allocated under state law.
- B. Reasonable best management practices, as identified and adopted by the states, pursuant to the nonpoint source control provision as found in §319 of the Clean Water Act, are the appropriate means for the voluntary control of nonpoint sources of pollution.
- C. With reference to Section 404 of the Act, the following should apply:
 - a. Accept local determinations of water project purpose and need;
 - b. An analysis of practicable alternatives should allow offsets for environmental mitigation and consider project benefits in determining the least environmentally damaging alternative.
 - c. EPA should not have authority to veto permits issued under section 404.
- D. Federal review of water quality standards or of state triennial review or permit decisions

does not constitute a "federal action" requiring consultation under the Endangered Species Act.

- E. Allowance for the adoption of classifications and standards based upon site specific conditions, with specific reference to those unique conditions found in the arid west.
- F. The continuation of the state water pollution control revolving loan fund to accomplish the goals and purposes of the water pollution control program.
- G. A presumption that state established water quality standards and other state actions taken pursuant to the provisions of the Act, including identification of impaired waters and the establishment of Total Maximum Daily Loads (TMDLs), are in compliance with the Act.

4. IMPLEMENTATION OF THE CLEAN WATER ACT

- A. The Colorado Water Congress urges that in the implementation of the Clean Water Act, state and federal agencies:
 - B. Act in a manner consistent with interstate compacts and state water allocation procedures and rights decreed thereunder;
 - C. Recognize that hydrologic modifications should not be considered pollutants or pollution;
 - D. Utilize sound science, risk assessment principles and cost/benefit analysis in program implementation;
 - E. Acknowledge that Endangered Species Act Section 7 consultation requirements are not triggered by the issuance of a discharge permit, the adoption of state water quality standards, or the review of existing standards by EPA;
 - F. Honor the states' authority in the adoption of designated uses and criteria based upon site specific stream conditions;
 - G. Encourage continued federal funding of the state water pollution control revolving loan fund;
 - H. Acknowledge that implementation of the Clean Water Act cannot be utilized to impair or impede in any manner

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whatsoever the exercise of any state-recognized water rights.

- I. Recognize that the transport of water from one stream or river to another water body does not constitute the addition of pollutants from a point source.

5. FEDERALLY IMPOSED FLOW REQUIREMENTS

- A. It is urged that Congress and the courts clarify that federal agencies have no authority to demand or require the bypass of decreed water or to acquire any instream flow or otherwise interfere with decreed and recognized beneficial uses of water in Colorado.
- B. The CWCB instream flow appropriation shall not be the basis for the imposition, by the federal government or others, of a bypass flow below a reservoir in excess of the reservoir's release requirement as established in accordance with state water law. The CWC encourages the CWCB to adopt a policy in accordance with this resolution.

6. WILD AND SCENIC RIVERS

To urge the Congress of the United States to amend the Wild and Scenic Rivers Act as follows:

- A. To require concurrence of the legislature in the state in which the segment of said river to receive designation as Wild and Scenic is located;
- B. To assure that said Wild and Scenic Rivers Act does not interfere with present or future beneficial uses of water or water rights allocated by the state;
- C. To place a 3-year limit on the amount of time an agency has to conduct a Wild and Scenic study of a river and make a recommendation to Congress; and
- D. To place a time limit of 3-years, beginning on the date Congress receives a Wild and Scenic recommendation, for Congress to formally approve a recommended wild and scenic designation. Should Congress not act in the 3-year time period, the river will no longer be managed by federal agencies

as if it had received Wild and Scenic river designation

7. WILDERNESS AND FEDERAL RESERVED WATER RIGHTS

The Colorado Water Congress shall oppose:

- A. Legislation which would create additional wilderness, national conservation or national recreation areas, national wildlife or other federal reservations of land in the State of Colorado unless it disclaims federal reserved water rights or otherwise accommodates, and pays due deference to, the water needs and interests of all Colorado citizens;
- B. Any attempt to affirm wilderness reserved water rights through litigation; and
- C. Any designation of downstream wilderness unless there is adequate assurance of protection of water rights and of reasonably foreseeable water needs.

8. ENDANGERED SPECIES ACT

The Colorado Water Congress supports balanced legislation reasonably protective of endangered species and their habitats. Any reauthorization of the Endangered Species Act or administrative reforms should incorporate the following concepts:

- A. Actions and policies which protect habitat and recover species, while providing a measure of certainty to property owners, should be encouraged, including those which provide for incentives prior to species listing;
- B. Sound scientific data and scientific peer review should be required to support species listings,,critical habitat designations and biological opinions;
- C. Listing and habitat decisions should be made with the assistance of a coalition of all stakeholders who should be provided information regarding the basis for listing, the economic and social consequences of listing and recovery and other alternatives to listing;
- D. Any instream flows to preserve the natural environment to a reasonable degree, including flows for endangered species,

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must be obtained pursuant to state law and held by the CWCB;

- E. Any taking of water rights must be accompanied by fair and timely compensation;
- F. Species recovery programs should be paid for by the federal government and not by individual states or project proponents;
- G. Reauthorization of the Endangered Species Act should mandate the establishment of criteria for species recovery, including identified species recovery numbers;
- H. If a species cannot be recovered within a reasonable time, with prudent effort, in an area of critical habitat, then that area should be removed from the critical habitat designation.
- I. Critical habitat designation should be subject to the NEPA review process; and
- J. All affected parties should have standing to challenge actions taken under the Act.
- K. The U.S. Fish and Wildlife Service should defer to local determinations in the development and approval of HCPs (Habitat Conservation Plans).

9. RECOVERY IMPLEMENTATION PROGRAMS

- A. The Colorado Water Congress supports appropriations by Congress and State Legislatures in Colorado, Wyoming, Utah and New Mexico to the Upper Colorado River Basin and San Juan River Basin recovery implementation programs, pursuant to cost sharing arrangements agreed to among the states and the federal government, as embodied in L.L. 106-392, the federal authorizing legislation for these two programs.
- B. The Colorado Water Congress urges the Colorado Wildlife Commission to manage Colorado's wildlife by implementing an aggressive and comprehensive program for the reduction of impacts of non-native fish species within the Colorado River basin within Colorado.
- C. The Colorado Water Congress further urges the Colorado Wildlife Commission to continue in its efforts to implement an

aggressive program of the propagation and augmentation of endangered fish species populations within the Colorado River basin in Colorado so as to promote stable populations and the recovery and delisting of such species.

10. COLORADO RIVER OPERATIONS

- A. The Colorado Water Congress urges that Congress not change the law of the Colorado River, or to modify the operation of Lake Powell in any manner which would limit the ability of the Upper Colorado River Basin to use its full Colorado River Compact entitlement, reduce power production, increase the costs of power, or reduce Colorado's share of power revenues from Colorado River Basin projects; and
- B. That Colorado maintains its position to fully protect, in perpetuity, Colorado's share of water under the compact and ensure that the lower basin states abide by the limitations upon water use set forth in the compact.

11. ANIMAS LA PLATA PROJECT

The Colorado Water Congress supports the timely construction of the Animas-La Plata Project and urges continued Congressional support of the project and prompt and fair agency action to honor clear Congressional direction to complete the project as stated in law.

12. REMOVAL OF DAMS

The Colorado Water Congress opposes any effort to breach or remove Colorado River Storage Project dams or drain associated reservoirs.

13. ENVIRONMENTAL IMPACT STATEMENT DELAY

The Colorado Water Congress urges all federal, state and local agencies involved in the preparation or review of environmental impact statements relating to water resource development projects to accelerate and coordinate the preparation and review of any necessary environmental impact statement.