

**RESOLUTION**  
**of the**  
**WESTERN STATES WATER COUNCIL**  
**regarding**  
**FEDERAL NON-TRIBAL FEES IN GENERAL ADJUDICATIONS**  
**Breckenridge, Colorado**  
**July 21, 2006**  
*(revised and reaffirmed)*

**WHEREAS**, states must conduct lengthy, complicated and expensive proceedings to establish the relative rights to water in water rights adjudications; and

**WHEREAS**, Congress recognized the necessity and benefit of requiring the United States' claims to be adjudicated in these state adjudications by adoption of the McCarran Amendment; and

**WHEREAS**, those claiming and establishing their right to water, including federal agencies, are the primary beneficiaries of adjudication proceedings by having the states officially quantify and record these water rights; and

**WHEREAS**, the courts have determined that under the McCarran Amendment the United States need not pay fees for processing federal claims; and

**WHEREAS**, the federal claims are typically among the most complicated and largest of claims in state adjudications; and

**WHEREAS**, if the United States does not pay a proportionate share of the costs associated with adjudications, the burden of funding the proceedings unfairly shifts to the state and other water users and often delays completion of the adjudications by depriving the states of the resources necessary to complete them; and

**WHEREAS**, delays in completing adjudications result in inability to protect private and public property interests or determine how much unappropriated water may remain to satisfy important environmental and economic development priorities.

**NOW THEREFORE BE IT RESOLVED** that the Western States Water Council again ask the Congress to recognize that requiring states and private users to fund processing of federal, non-tribal claims in water rights adjudications unfairly shifts the burden of funding these proceedings away from the parties who derive the greatest benefit from the proceeding and effectively establishes an unfunded mandate; and

**BE IT FURTHER RESOLVED** that the Council continue urging Congress to pass legislation narrowly tailored to establish that the United States, when a party to a general adjudication shall be subject to fees and costs imposed by the state to conduct the proceedings to the same extent as all other users.