

**RESOLUTION**  
of the  
**WESTERN STATES WATER COUNCIL**  
regarding  
**WATER TRANSFERS**  
and  
**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**DISCHARGE PERMITS**  
**Park City, Utah**  
**July 17, 2009**  
*(revised and reaffirmed)*

**WHEREAS**, on August 1, 2003 the Western States Water Council adopted a resolution regarding water transfers and National Pollutant Discharge Elimination System (NPDES) discharge permits; and

**WHEREAS**, on July 21, 2006, the Western States Water Council adopted a resolution that generally supported the U.S. Environmental Protection Agency's (EPA) proposed amendment to its Clean Water Act regulations as published on the June 7, 2006 Federal Register (Vol. 71, No. 109), which exempted water transfers from the NPDES permitting program.

**WHEREAS**, in those resolutions the Western States Water Council declared its position that the transport of water through constructed conveyances to supply beneficial uses should not trigger federal NPDES permit requirements, simply because the transported water contains different chemical concentrations and physical constituents; and

**WHEREAS**, in those resolutions the Western States Water Council also expressed support for the ability of each Western State to use available authorities to place appropriate conditions on water transfers to protect water quality; and

**WHEREAS**, on June 13, 2008, the EPA published in the Federal Register (Vol. 73, No. 115) a final amendment to its Clean Water Act regulations (40 CFR Part 122) that expressly excludes water transfers from regulation under the NPDES permitting program, and defines water transfers as an activity that conveys waters of the United States to another water of the United States without subjecting the water to intervening industrial, municipal, or commercial use; and

**WHEREAS**, the final rule relies on EPA's interpretation of the federal Clean Water Act and does not limit any ability of a State to use any available authority, including authority regarding nonpoint sources of pollution, to protect the water quality of the receiving water body in a water transfer; and

**WHEREAS**, water transfers and water quality are essential to the social, economic and environmental well-being of the Western States,

**NOW, THEREFORE, BE IT RESOLVED** that the Western States Water Council generally supports EPA's amendment to its Clean Water Act regulations as published in the June 13, 2008 Federal Register.

**BE IT FURTHER RESOLVED** that the Western States Water Council supports the use by a State of available authorities to protect the water quality of the receiving water body in a water transfer.