

WATER RESOURCES COORDINATION AND PLANNING AT THE FEDERAL LEVEL: THE NEED FOR INTEGRATION

Jeffrey P. Featherstone

Policy Analyst, Delaware River Basin Commission

Integrated resource planning recognizes the need for improved institutional arrangements at all levels of government. At the federal level such a state of affairs does not exist. While there is a long history of federal efforts to coordinate and integrate water resources planning and management, these efforts have been largely unsuccessful. Today there is renewed interest in this activity and much opportunity for improving coordination and integrating policy goals.

BACKGROUND

Water law in the United States has evolved under a system of dual sovereignty. It is separated into the federal law on one hand, and fifty independent sets of state laws on the other. The states have primacy over many aspects of water management within their respective boundaries. Each state has a unique set of institutions for the management of water quantity and quality. The principal powers of the states relate to water rights that govern the allocation of water among competing users. This topic is highly complex, and there are considerable and substantive differences in water rights among the states, particularly when contrasting the Eastern and Western parts of the country.

At the federal level, water resources planning and management are conducted in response to specific congressional mandates. A body of federal legislation articulates the national interest for numerous functional areas (such as flood control, navigation, fish and wildlife protection, and water quality protection). Responsibility for these national interests are scattered among many federal agencies. These agencies are often described as "functional bureaucracies," since they have functional responsibilities over the whole of the nation.

Examples include the U.S. Army Corps of Engineers, which constructs, operates, and maintains dams, reservoirs, and other facilities on navigable rivers for

flood control, navigation, hydropower, water supply, and other purposes. The Bureau of Reclamation of the Department of Interior constructs, operates, and maintains multiple-purpose dams and irrigation systems in the seventeen western states. The Soil Conservation Service also constructs structural works of improvement. The Department of Energy, under the 1992 Energy Policy Act, is responsible for regulating the performance of plumbing fixtures and fittings to meet water conservation objectives. The U.S. Environmental Protection Agency regulates all aspects of water quality.

Coordination problems at the federal level stem from the fact that the functions of the federal agencies often overlap. For example, the Army Corps of Engineers, Bureau of Reclamation, and Soil Conservation Service all build works for using and storing water. Coordination at the federal level is also affected by another, more important consideration—that water resources are functionally interrelated and the uses of water are interdependent. This is particularly true for interstate river basins, for which there is a need for a comprehensive treatment of water resource issues. This level of coordination cannot be accomplished as long as agencies focus on individual, functional issues (for example, dealing with water quality, but not water allocation).

PAST EFFORTS TO COORDINATE

The lack of coordination at the federal level has not gone unnoticed. While federal coordination activity can be traced back to President Teddy Roosevelt, more recent activity bears mention. In the 1940s, the federal government began to establish various interagency committees, composed of representatives of federal agencies and states, for multipurpose river-basin planning. They were set up for specific basins: the Missouri in 1945, the Columbia in 1946, the Pacific Southwest in 1948, and the Arkansas-White-Red and the

New York-New England basins in 1950. These regional committees were designed to be forums for improving interagency coordination. However, they were never able to accomplish this, largely because they were operated without offices or staff. Relations with state governments were informal and tenuous. Limited authority coupled with interagency differences made it difficult for the committees to resolve issues and integrate plans and actions.

The most recent federal attempt to improve federal interagency coordination and foster comprehensive management of water resources was the Water Resources Planning Act of 1965. Its purpose was to provide for the optimum development of the nation's water resources through the coordinated planning of water and related land resources. The Act provided for a federal Water Resources Council, regionally based river-basin commissions, and financial assistance to the states to enhance state water planning. Seven river-basin commissions were formed in the late 1960s and early 1970s, pursuant to Title II of the Act—New England, Ohio, Upper Mississippi, Souris-Red-Rainy, Missouri, Pacific-Northwest, and Great Lakes. These Commissions replaced the regional-interagency committees.

Each Title II commission was to serve as the principal agency for the coordination of federal, state, interstate, local, and private plans for each basin. However, Congress placed limits on the extent of a commission's activities. Authority was limited to coordination and planning, and did not extend to regulation, development, or management. Each commission, which had both federal and state members, had administrative offices with a core staff of between 20 and 30 employees. Funding was provided primarily from federal sources.

The promise of the Water Resources Planning Act proved to be short-lived. The River Basin Commissions were dissolved by federal executive order in 1981. While the Title II commissions had staffs and operating budgets, they fell short of meeting their legislative mandates; they did not become the principal coordinators of water resources plans and actions. The lack of authority to manage, regulate, and develop severely limited the ability of the Commissions to coordinate and plan. Because of their lack of authority to implement plans, the Title II commissions were often ignored by both federal and state agencies. The states also found the Commissions to be federally dominated and controlled.

Since 1981, federal interagency coordination and most interstate coordination has been accomplished informally. No formal mechanism exists to coordinate federal programs. The U.S. Water Resources Council has not been funded since 1981. With the notable exception of two federal-interstate compacts for the Delaware and Susquehanna River Basins and an Interstate Commission for the Potomac River Basin (all, interestingly, in the Eastern United States), water resources coordination at the interstate level is minimal. Only a few state-funded associations with skeleton staffs exist for the purpose of coordination.

RENEWED INTEREST

Today, there is a growing interest in coordination and integration. An growing number of journal articles have titles like "Resolving Interstate Water Conflicts in the Eastern United States: The Re-Emergence of the Federal Interstate Compact" or "Coordinating Water Resources in the Federal System." Groups of states are hosting conferences with titles such as "Options for Enhancing River Basin Management" and "Interstate Partnerships in Water Resources Management: Future Challenges and Opportunities." New approaches promoting the integration of planning at multiple levels of government are being advanced. Numerous white papers are being developed and workshops conducted on topics such as integrated resource planning and total water management. The Congress, by enacting the Safe Drinking Water Act of 1996, is instituting a source protection policy that will require the best efforts of government and utilities to protect the nation's drinking water supplies. In various proposed rewrites of the Clean Water Act, Congress is touting watershed planning as the new approach for resolving water quality problems. Similar approaches are being advanced by state agencies responsible for managing water resources.

The impetus for much of this debate and discussion stems from the fact that the world is far more complex, and facing seemingly insurmountable problems. It is increasingly difficult for any individual organization or institution to solve its problems without creating unintended consequences on other parties or encountering constraints imposed by others. Existing federal command-and-control programs are becoming less cost-effective. An inordinate amount of time and energy is spent disputing resource problems created by contrived

political boundaries and overlapping jurisdictions. Policy institutions often have failed to recognize the reality that water moves through the hydrologic cycle without regard to political boundaries. Broad-based integrated planning is needed at both the federal and interstate levels and new institutional approaches are needed for implementation.

WHAT NEEDS TO BE DONE

At the federal level, water policy needs to be elevated to the national agenda. A leadership vacuum, evident to a growing number of people, has existed since the demise of the Water Resources Council (WRC). At a minimum, the President and Congress should consider reconstituting the WRC or creating a new cabinet level body to replace it. In order to promote improved interstate and federal-state coordination of water resources planning and management, the federal government should encourage the enactment of more federal-interstate compacts and other institutional arrangements such as the CALFED process for the numerous "problem watersheds."

Federal-Interstate Compacts

In a Federal-Interstate Compact, the federal government is a signatory party with each of the states. Broad powers are granted to the compact commission, including regulatory and management powers, as well as responsibilities for coordination and planning. Two such compacts have been enacted: the Delaware and Susquehanna Compacts. Each compact, which was enacted by concurrent legislation of the states and the federal government, provides for the joint exercise of sovereign powers over the water resources of each basin. As laws of both levels of government, they are enforceable and binding on federal agencies as well as on state agencies. The compacts provide the commissions with broad authority to engage in comprehensive, basinwide planning and management. The two in existence are both success stories. These compacts provide the regional emphasis needed for interstate coordination and the long-sought linkage between federal and state planning and program implementation.

CALFED Process

An example of a less-formalized process for addressing and resolving federal-state conflicts is the CALFED process. In December 1994, the Governor of California, the U.S. Secretary of the Interior, and the Administrator of the U.S. Environmental Protection Agency signed an accord to develop a comprehensive ecosystem plan for the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary. The accord commits federal and state agencies to work together to improve management of the Estuary through water quality standards formulation, coordination of State Water Project and Central Valley Project operations with regulatory requirements, and a long term solutions to problems in the Bay-Delta Estuary.

CONCLUSION

In summary, there is a clear need to improve the coordination and integration of water resources planning and management at the federal level. Meeting this need does not require the federal government to create an expensive new command-and-control administrative structure. Instead, the federal government should seek to either reconstitute the Water Resources Council or create a cabinet-level body to improve federal-interagency coordination and management. In addition, the federal government should encourage the creation of additional federal-interstate compacts and other institutional arrangements, such as the CALFED, process to promote interstate and federal-state coordination of water resources planning and management at the regional level.

The Author

Jeffrey P. Featherstone is the Policy Analyst for the Delaware River Basin Commission. He is an active member of the American Water Works Association and serves as the Chairman of the AWWA Water Conservation Committee.