

INSTITUTIONAL INVENTORY FOR 208 FUNCTIONS



Water Quality Management Plan

LARIMER-WELD REGIONAL COUNCIL OF GOVERNMENTS
LOVELAND, COLORADO

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INSTITUTIONAL INVENTORY
OF
PERTINENT CHARACTERISTICS
FOR 208 FUNCTIONS

Prepared for

Larimer-Weld Regional
Council of Governments

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1.0 EXECUTIVE SUMMARY

The analysis of institutional forms involved in water quality activities expands rapidly when it is considered that water quality is inextricably tied to other activity areas such as:

- . Water Resources
- . Flood Control
- . Ground Water
- . Land Use

This institutional analysis takes these related activities into account and evaluates each agency that has significant impact upon water quality matters but which may not usually be thought of in terms of water quality agencies.

Our principal finding of the analysis is that at all levels of government and throughout virtually all institutional forms, there is little evidence to support the idea that water quality is a very high priority item in terms of affecting institutional structures. Rather, a lack of coordination and integration of agencies dealing with water quality related activities at all levels of government is obvious.

Another principal finding is that institutional structures necessary to deal with the apparent requirements of agricultural and non-point source pollutants are virtually non-existent. This is particularly true in terms of institutions with regulatory capabilities and inclinations.

Eight major federal agencies are significantly involved with broadly defined water management related activities. Those agencies are:

- . Department of Agriculture
- . Department of Commerce
- . Council on Environmental Quality
- . Department of Housing and Urban Development
- . Department of the Interior
- . Department of Defense

- . Environmental Protection Agency
- . Department of Health, Education and Welfare

The Federal Government is not structurally organized to reflect a strong centralized commitment to water management related activities. Although history reflects major federal resource commitments to various aspects of water management, it has not been a centrally directed, uniform, on-going commitment, that would suggest water management is continually high on the list of federal priorities. Most significantly missing is a commitment to the concept of integrating all forms of water management activities into a single, well considered program.

The principal agency dealing with federal water quality activities is the Environmental Protection Agency (EPA). EPA administers most of the existing federal water quality legislation including PL 92-500 under which this study is being performed.

There are four (4) major departments of the State and twenty-one (21) or more commissions, boards or divisions that have water related responsibilities and functions. The major departments are:

- . Department of Natural Resources
- . Department of Health
- . Department of Agriculture
- . Department of Local Affairs

The agencies that have the largest impact directly upon water quality matters are the Water Quality Control Commission, which has primary statutory powers over most water quality matters and, the Water Quality Control Division of the Department of Health. The Water Quality Control Commission is not only the policy setting agency for state water quality matters, but it is also deeply involved in program administration and enforcement.

Relative amounts of resources being allocated to state water quality activities suggests that water quality affairs are not a very high priority program in terms of overall state activities.

The state administrative structure is not organized to efficiently deal with broad water management activities when water resources, water quality, flood control and ground water concerns are viewed as part of a single system.

Regional agencies in Colorado have functioned primarily in the areas of planning and coordination and not in the areas of service delivery. The reluctance on behalf of local governments to give up some of their powers to a new

level (regional) of government has restricted the application of the concept. The requirement in PL 92-500 for "area-wide" planning renews the need to assess regional institutions as a part of the 208 water quality program.

The regional institutions evaluated herein do not have the independent political or financial powers to function in other than planning and coordinative roles of the 208 program, except for Regional Service Authorities which have permissive legislative standing in the State, but are yet to be created by a region of the State. COG's and Regional Planning Commissions can play an important role in the 208 program, but their responsibilities must be carefully scrutinized.

At the local level, planning, design, construction and operation of waste water facilities are a maze. There are very few ground rules to determine who serves what area or builds what size facility. Each local agency pursues its own sources of funding and essentially determines its own service area and plant needs. Whatever agreements do exist are voluntary. Little integration has occurred to date between waste water treatment and water resource development, flood control, or use of water for irrigation. No institutional arrangement presently exists to accomplish this.

In spite of these existing deficiencies, the experience, powers and capabilities of the various forms of local government suggest they are well-equipped to play a key role in the 208 program. In particular, land use and financing powers are possessed by towns, cities and counties which will be important in achieving the program's goals.

Special districts for waste water treatment facilities and water resource development take many forms in Colorado. County control over the creation of districts is limited and varies from county to county with regard to the permissiveness of new creations. Smaller communities frequently lack the ability to develop their own utility system, so they depend on the creation of a special district to provide service.

2.0 FEDERAL AGENCIES AND WATER MANAGEMENT

2.1 INTRODUCTION

This analysis of federal agencies includes agencies involved in water quality, water resources and flood control.

Eight major federal agencies are significantly involved with broadly defined water management related activities. Those agencies are:

- . Department of Agriculture
- . Department of Commerce
- . Council on Environmental Quality
- . Department of Housing and Urban Development
- . Department of the Interior
- . Department of Defense
- . Environmental Protection Agency
- . Department of Health, Education and Welfare

The principal agency dealing with federal water quality activities is the Environmental Protection Agency (EPA). EPA administers most of the existing federal water quality legislation including PL 92-500 under which this study is being performed.

EPA activities today, in terms of fiscal support, program management and regulatory forces, have a significant impact on state and local water quality activities. Regulatory demands and fiscal support are often not synchronized.

The Federal Government is not structurally organized to reflect a strong centralized commitment to water management related activities. Although history reflects major federal resource commitments to various aspects of water management, it has not been a centrally directed, uniform, on-going commitment, that would suggest water management is continually high on the list of federal priorities. Most significantly missing is a commitment to the concept of integrating all forms of water management activities into a single, well-considered program.

Federal activities in the field of agricultural related pollutants and programs to assist or regulate have historically been more in the nature of aid and assistance than they have been regulatory. The interpretation under PL 92-500 that return flows from irrigated agriculture are subject to discharge permit requirements is a departure from this

posture. The impact of this kind of regulation on water quality enhancement is not clear at this time.

2.2 DEPARTMENT OF AGRICULTURE

2.2.1 Soil Conservation Service

2.2.1.1. Functions

The Soil Conservation Act of 1935 and the Watershed Protection and Flood Prevention Act of 1954 direct the Soil Conservation Service to conduct investigations and provide technical assistance and funding related to conservation of land and water resources.

The Soil Conservation Service was established in the 1935 Act; it is an agency of the Department of Agriculture. It administers activities involving technical and financial assistance for planning and conducting programs to protect and improve water and related land resources. It is also involved with flood control programs.

The central objective of the Soil Conservation Service is to promote an integrated system of land use and conservation treatment in harmony with the capabilities of the land. Local participation and control is provided by districts organized under state laws. The districts are autonomous and governed by locally elected supervisors. The Service channels its grant assistance to landowners through the local soil conservation districts. Participation consists primarily of professional assistance and planning and applying conservation measures needed for each type of land involved. The Service provides technical assistance and information in cooperation with local individuals and organizations.

2.2.1.2. Program Activities

The primary expertise in the Soil Conservation Service is directed towards soil conservation as opposed to water quality. The major programs in which the Soil Conservation Service is involved include:

- . Technical assistance to soil conservation districts.
- . Watershed protection and flood prevention activities. This involves protection of watersheds under 250,000 acres, flood prevention, agricultural water management (drainage and irrigation), recreation, fish and wildlife, municipal and industrial water supply (if in conjunction with the agriculture or flood prevention) and water quality (no policy exists to implement this provision; water quality is not a major concern at this time).

- . Resource and Conservation Development Areas. This involves erosion control for critical areas. Four such areas exist in Colorado. *

In conducting its major programs, the role of the Soil Conservation Service may be to:

- . Enter into cooperative agreements with states, local governments and special districts.
- . Provide technical assistance to states and local agencies for conservation programs.
- . Provide cost sharing and financial assistance to protect regional watersheds.
- . Work with farmers to develop land conservation utilization programs.
- . Develop measures and facilities for water quality management, control of agricultural pollution and water storage for rural communities.
- . Participate in developing irrigation projects.
- . Carry out emergency measures for soil erosion whenever natural forces cause sudden impairment of a watershed.
- . Inventory and monitor soil and water resources.
- . Conduct river basin surveys with other federal, state and local agencies.
- . Administer activities consisting of investigations and surveys of proposed small watershed projects.
- . Assist local groups in planning and development of land and water resources in multiple county areas.
- . Provide technical assistance to the Farmers Home Administration in making soil and water conservation loans.

2.2.2 Farmers Home Administration (FmHA)

2.2.2.1 Functions

The Consolidated Farm and Rural Development Act, the Housing Act of 1949, and the Watershed Protection and Flood Prevention Act of 1954 direct the Farmers Home Administration to provide

* Interview with Mr. Thornton, U.S. Soil Conservation Service in Denver, March 10, 1977.

loans and grants to rural areas.

The FmHA was established in 1946 to provide loans and grants for farms, business and industry, community facilities, housing, etc. It serves the needs of farmers and local organizations in rural areas and communities under 10,000 in population. Relative to water, it deals primarily in irrigation and drainage systems, watershed protection and flood prevention. For all loans listed below, except Resource Conservation and Development loans, it must be demonstrated that other sources of credit are not available.

2.2.2.2 Program Activities

- . Make loans for water and waste disposal systems for rural areas with inadequate facilities.
- . Make loans for irrigation and drainage works.
- . Make loans for pollution abatement and control for family farms in rural areas.
- . Make real estate loans for farms, recreation facilities and the soil and water conservation programs.
- . Make recreation loans to enable farmers and ranchers to convert part of their property to recreational enterprises.
- . Make water protection and flood protection loans. These loans enable local organizations approved by the Soil Conservation Service to finance projects that protect and develop land and water resources in small watersheds.
- . Make resource conservation and development loans. These loans enable sponsors of projects approved for operation by the Soil Conservation Service to finance projects for natural resource conservation and development in designated areas.

2.2.3 Forest Service

2.2.3.1 Functions

The Organic Act of 1897, the Wilderness Act of 1964, the Wild and Scenic Rivers Act and the Watershed Protection and Flood Prevention Act of 1954 direct the Forest Service to conduct planning and research and provide technical assistance, management of forest resources and monitoring.

The Forest Service was organized under the Department of Agriculture in 1905. In administering forest resources, the Service is to promote resource use that meets the needs of present and future, preserve and improve water quality, protect open space,

and secure favorable conditions for water flows. The Forest Service manages 155 national forests and 19 national grasslands comprising 187 million acres. A goal of the Forest Service is to balance the nation's need for wood supplies with other renewable resources.

2.2.3.2 Program Activities

- . Provide technical assistance to agencies in developing measures to retard soil erosion and runoff.
- . Manage national forests.
- . Recommend purchase of land in watersheds of navigable streams.
- . Purchase water rights and land.
- . Enter into agreements with municipalities to provide water supply.
- . Study rivers under the Wild and Scenic Rivers program.
- . Establish wilderness areas.
- . Cooperate with states to provide services and cost sharing with non-government organizations in programs relating to watershed management and conservation.
- . Coordinate programs with state and local governments that may include watershed and fish and wildlife, protection of local municipal watersheds, water runoff and soil erosion.
- . Cooperate with states, the Soil Conservation Service and local water conservation districts to control fires, improve forest growth and prevent floods.
- . Monitor water quality.
- . Create timber management plans.

2.3 THE ECONOMIC DEVELOPMENT ADMINISTRATION OF THE DEPARTMENT OF COMMERCE

2.3.1 Functions

The Public Works and Economic Development Act of 1965 directs the EDA to provide grants and loans in areas of severe unemployment and low family income.

The EDA was established in 1965. Its purpose is to establish an effective program of federal financial assistance in order

to create long-term employment opportunities and to benefit the long-term unemployed and members of low income families.

The EDA provides grants and loans to state political subdivisions, Indian tribes, and private or nonprofit organizations for public works and development facilities. The EDA's purpose is to provide new industry and permanent jobs where they are most needed. Most of the funds will be used for public works grants and loans, loans for industrial and commercial facilities, technical planning and assistance.

The Secretary of Commerce may designate economic development regions that have lagged behind the nation in economic development. These commissions conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region; prepare long-range economic development plans; sponsor demonstration projects designed to foster regional productivity and growth; and provide a forum for consideration of the problems of the regions and proposed solutions.

The Four Corners Regional Commission was organized through the EDA in December, 1966, when the governors of Colorado, Arizona, Nevada, Utah and New Mexico entered into an agreement with the Secretary of Commerce. The Commission membership consists of the governors of the aforementioned states and a federal co-chairman appointed by the President.

2.3.2 Program Activities

- . Provide direct grants for public facilities. Grants for sewer or other waste disposal facilities must be conditioned on certification by the EPA that the material carried will be treated adequately.
- . Provide supplemental grants for states and other entities to participate in federal programs for which they are eligible, but because of their economic situation, cannot supply the required local contribution.
- . Provide loans for public facilities.

2.4 COUNCIL ON ENVIRONMENTAL QUALITY

2.4.1 Functions

The National Environmental Policy Act of 1969 and the Environmental Quality Improvement Act of 1970 direct the Council on Environmental Quality to conduct research and advise the President.

The CEQ was established to formulate and recommend national policies to promote the improvement of the quality of the environment. The Office of Environmental Quality, which provides staff

for the Council, was subsequently established by the Environmental Quality Improvement Act of 1970.

The Council consists of three members appointed by the President by and with the advice and consent of the Senate. One of the members is designated by the President as Chairman. The Council is located within the Executive Office of the President.

The CEQ develops and recommends to the President national policies which promote environmental quality, performs a continuing analysis of changes or trends in the national environment, and assists the President in the preparation of the annual environmental quality report to the Congress.

2.4.2 Program Activities

- . Advise and assist the President and federal agencies on environmental policies and procedures.
- . Report to the President on the state and condition of the environment.
- . Gather and analyze information and submit studies on the environment.
- . Develop policies to improve environmental quality.
- . Review federal programs as they apply to the National Environmental Policy Act.
- . Issue guidelines to federal agencies on Environmental Impact Statement preparation.
- . Prepare a National Contingency Plan for removal of oil and hazardous substances.

2.5 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

2.5.1 Functions

The Housing and Urban Development Act of 1965 and the National Flood Insurance Act of 1965 directs HUD to provide loans and grants.

The Department administers a number of programs for the development and management of water and related land resources. The Department also administers housing and urban redevelopment programs which affect water resources.

2.5.2 Program Activities

- . Provide grants for water and sewerage facilities. All grants for sewer facilities must be certified by the

EPA that materials carried will meet water quality standards.

- . Provide loans for public facilities. These include water and sewage treatment facilities.
- . Provide grants for land acquisition to states and localities to help finance the acquisition and development of land in urban areas to be used for parks, recreation or scenic purposes.
- . Establish and carry out the National Flood Insurance Program. This involves study, establishment of rates and evaluation of flood hazard areas. The Corps of Engineers actually designates the areas.
- . Make planning grants.

2.6 AGENCIES OF THE DEPARTMENT OF THE INTERIOR

2.6.1 United State Geological Survey

2.6.1.1 Functions

The Outer Continental Shelf Lands Act directs the USGS to conduct investigations, to monitor, and to provide technical assistance.

The broad objectives of the USGS are to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States; and to classify land for its mineral, water and power resources. In the field of water resources, it develops information concerning the source, quality, quantity, distribution, management and availability of both surface and ground water.

2.6.1.2 Program Activities

- . Study geological structure, mineral resources and products.
- . Gauge streams, measure water quality and determine the water supply of the United States.
- . Examine federal land to determine sites for water power and reservoir development.
- . Prepare topographic maps.
- . Share costs with states and local agencies.
- . Provide technical assistance to federal agencies, and to licensees of the Federal Power Commission.
- . Coordinate federal water data acquisition activities.

2.6.2 Bureau of Reclamation

2.6.2.1 Functions

The Reclamation Act of 1902, the Colorado River Basin Salinity Control Act of 1974, the Fish and Wildlife Coordination Act and the Federal Water Project Recreation Act direct the Bureau of Reclamation to conduct planning, construction and operation of facilities and provide technical assistance.

The Reclamation Act of 1902 authorized the Secretary of the Interior to locate, construct, operate and maintain works for the storage, diversion and development of waters for the reclamation of arid and semi-arid lands in the Western states.

The basic objectives of the Federal Reclamation program are to assist the states, local governments, and other federal agencies to stabilize and stimulate local and regional economies, enhance and protect the environment, and improve the quality of life through development of water and related land resources throughout the 17 contiguous Western states and Hawaii.

Reclamation projects, through a multiple-purpose concept, provide for some or all of the following purposes: municipal and industrial water supply, hydroelectric power generation and transmission, irrigation water, water quality improvement, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, and related uses. Through contractual agreements with project beneficiaries, the Bureau arranges for repayment of reimbursable project construction, operation, and maintenance costs to the government. About 86 percent of all project costs are reimbursable. Interest is paid on costs allocated to power and to municipal and industrial water service.

2.6.2.2 Program Activities

- . Investigate and develop plans for the regulation, conservation and utilization of water and related resources, including basin-wide water studies and new sources of water supplies, power capacity, and energy; research is also directed toward programs to maximize use of resources, including weather modification.
- . Design and construct authorized projects for which funds have been appropriated by the Congress.
- . Repair and rehabilitate existing projects; operate and maintain Bureau-constructed facilities which are not transferred to local organizations.
- . Review operation and maintenance of Bureau-built facilities which have been transferred to local organizations.

- . Administer the Small Reclamation Projects Act of 1956, as well as loans for construction or rehabilitation of irrigation systems.
- . Negotiate, execute and administer repayment contracts, water-user operation and maintenance contracts and contracts relating to the irrigation of excess lands.
- . Assume responsibility for the sale, interchange or transmission of electric power and energy generated at power plants constructed and operated by the Bureau.
- . Review environmental statements for proposed federal water resource projects in cooperation with other agencies.
- . Render technical assistance to foreign countries in water resource development and utilization in cooperation with other agencies.

2.6.3 Bureau of Land Management

2.6.3.1 Functions

The Outer Continental Shelf Lands Act, the Desert Land Entries Act, the Classification and Multiple Use Act, and the Taylor Grazing Act direct the Bureau of Land Management to conduct planning, management of land and water resources, issue permits and administer leases.

The BLM and its predecessors have been the nation's primary federal real estate agency since 1812. Its policies and programs have been governed by approximately 5,000 federal land laws.

The BLM is now partially or totally responsible for the administration of the mineral resources for about one-third of the total land area of the United States and with similar responsibilities for minerals on the Outer Continental Shelf. The BLM has jurisdiction of approximately 178 million acres of land in the 11 Western states and in addition, most of Alaska.

The BLM implements land management policies under authorities of the Code of Federal Regulations, Part 2400, and other specific classification authorities. Although the BLM is not directly oriented to water development projects, the land management practices and uses of lands under its jurisdiction have an important effect on the watersheds and related water resources. The BLM has the control and responsibility of transferring public lands through sales, exchanges, grants, and public land entries for nonfederal purposes such as residential, urban, recreational, industrial, or commercial development. The granting and administering of all types of rights-of-way, easements and permits for the occupancy of public lands under its

jurisdiction and the maintenance of the basic land ownership records for all public domain lands is BLM's responsibility. The BLM, in its management and development of resources, is concerned with watershed conditions and installs and maintains devices to stabilize soil, control silt, modify water yield, and maintain water quality. Its activities include the evaluation, planning, protection, management and development of water resources for outdoor recreation, fish and wildlife habitat, timber and livestock water and forage value.

2.6.3.2 Program Activities

- . Dispose of mineral resources.
- . Promulgate regulations for prevention of waste and the conservation of resources in connection with leasing operations.
- . Manage BLM lands for multiple uses.
- . Reserve public lands for water-related purposes, e.g., springs, waterholes, hot springs, water power and irrigation sites.
- . Issue permits for use of BLM land.
- . Classify public lands for retention.
- . Establish grazing districts if beneficial; investigate erosion and flood control and perform needed work on those lands.
- . Conduct studies and experiments and enter into cooperative agreements for the improvement, management, use and protection of all lands under the BLM.
- . Prevent soil erosion and conserve water resources.
- . Enter into cooperative agreements for management of privately owned forest lands to maintain water supply, regulate streamflows, prevent soil erosion and preserve wildlife.

2.7 THE U.S. ARMY CORPS OF ENGINEERS OF THE DEPARTMENT OF DEFENSE

2.7.1 Functions

The River and Harbors Act of 1899, the Water Project Recreation Act of 1965, the Flood Control Act of 1970, and the Water Pollution Control Act Amendments of 1972 direct the Corps of Engineers to provide design, construction, operation and maintenance of flood control, water supply and quality works, as well as to administer regulatory programs and provide planning, permitting, and technical assistance.

The Army's Civil Works Program, a responsibility of the Corps of Engineers under the direction and supervision of the Secretary of the Army, dates back to 1824 and is the nation's major federal water resources development activity and involves engineering works such as major dams, reservoirs, levees, harbors, waterways, locks and many other types of structures. These works provide flood protection for cities, supply water for municipal and industrial use, generate hydroelectric power, provide recreational opportunities, regulate the rivers for many purposes, including the improvement of water quality and the enhancement of fish and wildlife, and protect the shores of oceans and lakes. Planning assistance is also provided to states and other nonfederal entities for the comprehensive management of water resources, including pollution abatement works. In addition, through the Civil Works Program, the Federal Government protects the navigable waters of the United States under legislation empowering the Secretary of the Army to prohibit activities which would reduce the value of such waters.

2.7.2 Program Activities

- . Investigate and improve rivers and harbors.
- . Construct works for flood control, navigation, power, irrigation, municipal and industrial supply and water quality control.
- . Plan water resource use.
- . Contract for surplus water available at Corps reservoirs.
- . Construct needed improvements for waterways.
- . Provide technical assistance relating to water quality.
- . Issue permits for dams, dikes, structures, dredging and filling.
- . Provide planning assistance to states and other non-federal entities for the comprehensive management of water resources.
- . Designate flood hazard areas.

2.8 DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

2.8.1 Functions

The National Environmental Policy Act of 1969 and the Public Health Service Act direct the Department of Health, Education and Welfare to conduct research, provide grants and establish drinking water standards.

The administrative units responsible for the major water-related activities carried out within the Department of HEW are the Food and Drug Administration, the Bureau of Community Environment Management and the National Institute of Environmental Sciences.

The Department makes available its expertise on the public health aspects of water quality.

2.8.2 Program Activities

- . Consult with federal agencies on health aspects of water and waste treatment systems when environmental impact statements are prepared.
- . Cooperate with EPA studies on harmful effects of pollutants related to public health.
- . Establish standards for drinking water quality for interstate carriers.
- . Establish regulations on discharge of sewage by vessels.
- . Provide assistance to states and localities to assure that necessary sanitation measures are taken relative to water based recreation programs.
- . Conduct research and provide grants on disease prevention.

2.9 ENVIRONMENTAL PROTECTION AGENCY

2.9.1 Functions

The Federal Water Pollution Control Act, as amended directs the Environmental Protection Agency to conduct research, monitoring, enforcement, planning, to issue permits, and provide grants.

The EPA was established in the executive branch as an independent agency pursuant to Reorganization Plan No. 3 of 1970, effective December 2, 1970.

The EPA was created to permit coordinated and effective governmental action on behalf of the environment. The EPA endeavors to abate and control pollution through research, monitoring, standard setting and enforcement activities. As a complement to its other activities, EPA coordinates and supports research and anti-pollution activities, by state and local governments, private and public groups, individuals and educational institutions. EPA also reinforces efforts among other federal agencies with respect to the impact of their operations on the environment, and it is specifically charged with making public its written comments on environmental impact statements and with publishing its determinations when those hold that a proposal

is unsatisfactory from the standpoint of public health, welfare or environmental quality.

2.9.2 Program Activities

- . Research environmental problems.
- . Issue permits.
- . Evaluate state water quality standards and planning programs.
- . Enforce violations of the water pollution control laws.
- . Encourage cooperative activities of the states for pollution control.
- . Promulgate water quality standards for states not submitting consistent regulations.
- . Publish regulations for point source control.
- . Provide grants to local entities for administration, monitoring, permits, enforcement, planning, training and municipal facilities.
- . Evaluate areawide water plans.

3.0 STATE AGENCIES AFFECTING OR AFFECTED BY WATER RESPONSIBILITIES

3.1 INTRODUCTION

The analysis of state agencies involved in water quality is based on the assumption that water quality matters are inextricably intertwined into water resource, flood control, ground water and other forms of overall water management.

There are five (5) major departments of the State and twenty-one (21) or more commissions, boards or divisions that have water related responsibilities and functions. The major departments are:

- . Department of Natural Resources
- . Department of Health
- . Department of Agriculture
- . Department of Local Affairs
- . Land Use Commission

The agencies that have the largest impact directly upon water quality matters are the Water Quality Control Commission, which has primary statutory powers over most water quality matters and the Water Quality Control Division of the Department of Health. The Water Quality Control Commission is not only the policy setting agency for state water quality matters, but it is also deeply involved in program administration and enforcement.

Water quality activities at the state level significantly impact and are impacted by water quality related activities at other levels of government (both federal and local). State activities are central in the overall impact on water quality activities upon the waters of our state.

An analysis of the state agencies involved in all aspects of water quality suggests the following:

- . Relative amounts of resources being allocated to state water quality activities suggests that water quality affairs are not a very high priority program in terms of overall state activities.
- . The state administrative structure is not organized to efficiently deal with broad water management activities when water resources, water quality, flood control and ground water concerns are viewed as part of a single system.

- . State water quality legislation that gives the Water Quality Control Commission not only policy setting powers but administrative and management tasks should be re-evaluated. The policy setting task alone is a major task for an unpaid, citizen appointed group. Administrative and management tasks should be reassigned to some other agency.
- . Water resource agencies appear to be better organized, better funded and institutionally more stable than water quality agencies.
- . State agencies to deal with agriculturally related water pollution problems in a rigorous, regulatory sense are virtually non-existent. State activities exist that deal with agricultural related pollutants in an indirect manner, but cooperative assistance and advice is more the operative mood, than regulation. Until more information is available on the nature and degree of the agriculture related pollution situation, it will not be known whether this structure is a problem or not.

3.2 AGENCIES OF THE DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources has a vital role in land and water resource management. Two of its agencies, the Colorado Water Conservation Board and the Division of Water Resources, have the primary responsibilities relating to water resource management. Much of the work of the department involves coordination between Federal and State agencies, local governments, and special districts. The Department is involved with the preparation of a resource plan for the State. See Figure 3.2-A for the Departmental organization.

3.2.1 Colorado Water Conservation Board

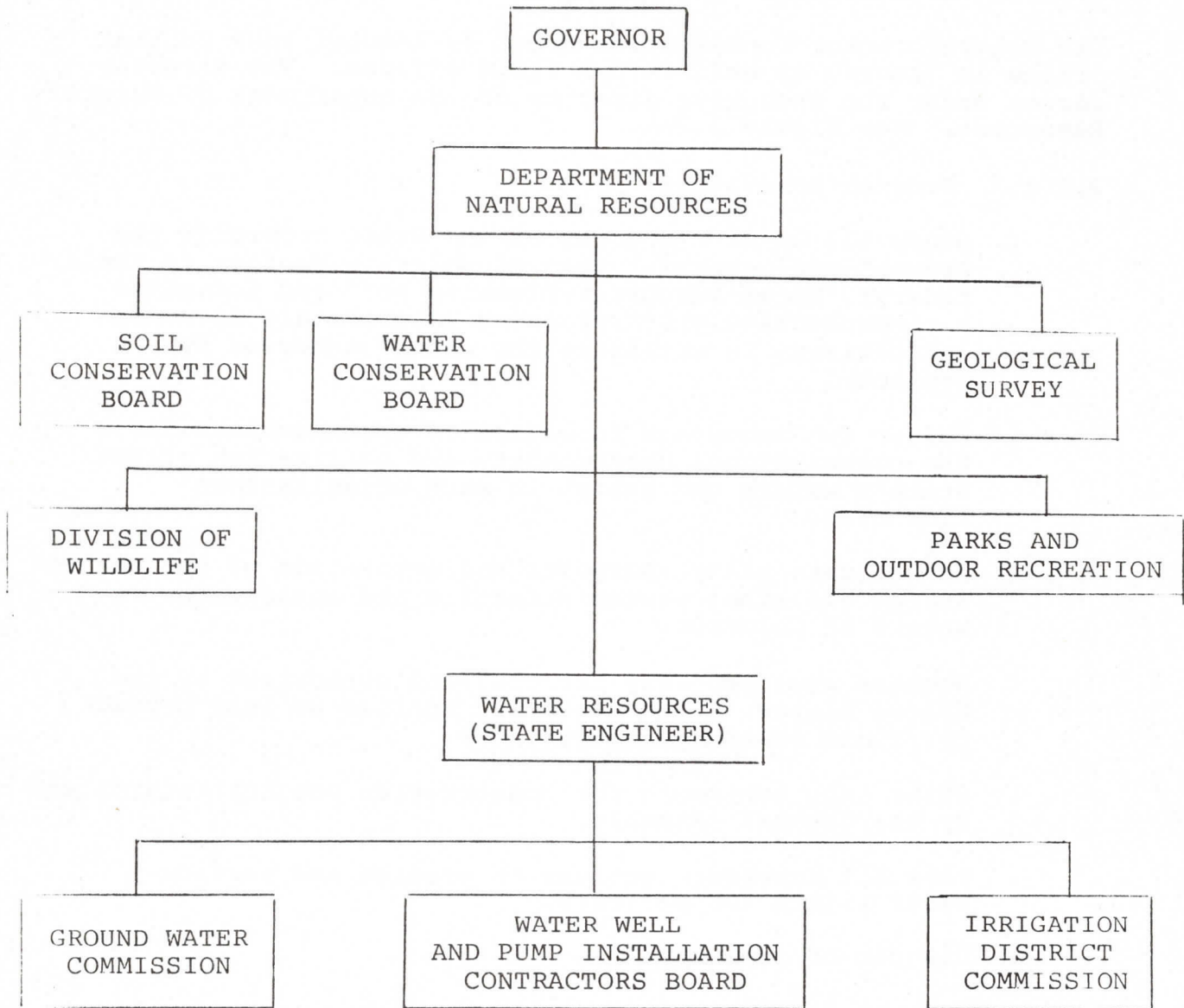
3.2.1.1 Functions

Title 37, Article 90, CRS 1973 and H.B. 1041 direct the Water Conservation Board to conduct planning and management.

The Board primarily deals with water supply and interstate compacts, conservation, promotion of water supply projects, flood control and water resource planning.

The Board administers the Colorado Water Conservation Board Water Projects Construction Fund. This fund is for small projects and is funded by the State; it totals about \$10 million. The Board constructs the projects and leases them to towns until the amount is paid; the town gets possession of these projects at that time.

FIGURE 3.2-A



Source: Organization Chart of State Government in Colorado December, 1974

Organization Charts presented illustrate only water-related divisions.

3.2.1.2 Organization

The Colorado Water Conservation Board is located in a central office in Denver, as well as two field offices. The director serves under the executive director of the Department of Natural Resources. See Figure 3.2-A.

3.2.1.3 Program Activities

- . Study the water resources of the State regarding the present and potential uses of water to conform to the federal "Water Resources Planning Act" and formulate a comprehensive water planning program; aid agencies and citizens in utilizing the water conserved by projects.
- . Foster and encourage formation of organizations for the conservation, development, and utilization of the State's waters and assist in such organizations' financing.
- . Investigate plans, purposes and activities of the United States and other states affecting the interstate waters of Colorado.
- . Acquire real property for projects authorized by the United States. This generally applies to land needed for flood control projects.
- . Enter into contracts for conservation projects authorized by the General Assembly.
- . Take all necessary actions to acquire and perfect water rights for projects.
- . Dispose of property.
- . Prevent flood damage and plan for water resources. The Board acts as the moving agency for authorization of federal reclamation and flood control projects. This involves up to \$100 million funded by the Federal Government and \$4 million from the State. It appropriates about \$150,000 annually to coordinate studies and develop programs with local communities. Funding is split for these projects between the Board, the Corps of Engineers and local communities. Consultants are utilized for these studies.
- . Designate flood hazard areas under H.B. 1041.
- . Formulate and prepare state and federal draft legislation designed for greater beneficial use and utilization and for protection from flood damage.

- . Appropriate or acquire "such waters of natural streams and lakes as may be required to preserve the natural environment to a reasonable degree".
- . Aid in the "protection and development of the waters of the state for the benefit of the present and future inhabitants of the state." The Board does not fund water quality projects.
- . Work with Federal agencies on designation of wilderness areas.

3.2.1.4 Staffing and Budget

- . 22 full time equivalents (FTE)*
- . \$1,344,782 (1976-77) plus the special projects construction fund (from \$60,000 to \$10 million) and Federal projects for flood control (up to \$4 million from the State and up to \$100 million from the Federal Government).*

3.2.2 Division of Water Resources

3.2.2.1 Functions

Title 35, Article 49; Title 34, Article 70; Title 37, Articles 63, 65, 67, 68, 80, 81, 82, 84, 87, 90, 91 and 92, CRS 1973 direct the Division of Water Resources to conduct administration, management, planning and regulation of water use.

The Division administers both surface and underground water for the citizens of Colorado utilizing water for domestic, municipal, agricultural, recreational, industrial, and other purposes according to the various decrees entered by the courts. This administration is accomplished in two different manners. In some areas a water commissioner actually distributes the water by opening and closing the gates and releasing water from reservoirs while in other areas it is accomplished by orders from the water commissioner to the ditch rider or superintendent employed by the ditch company who actually distributes the water for that entity. In both instances the distribution and delivery is the responsibility of the Division.

Disputes with regard to the ownership of the water rights is heard by the water courts. Objections to the rulings of the Division Engineer or State Engineer in matters of distribution are also sometimes brought before the courts.

The Division is responsible for the construction of new wells, both from the standpoint of relationship with other water rights

* Interview with Felix Sparks, Director, Water Conservation Board, November 4, 1976.

and sanitary completion. Upon the application for a permit to construct a well, members of the Division staff review the location and anticipated producing formation to determine if the appropriation will interfere with prior existing rights. If they find there will be no such interference, they grant the permit, but not otherwise. This procedure involves only those ground waters which are in the tributary system or whose appropriation cannot have an effect on surface diversions. In the case of confined aquifers not in designated basins, an application will be granted to allow the owner to make an annual appropriation of 1/100 of the available supply. For actions and permits in designated ground water basins see the section under Ground Water Commission which is a part of the Division of Water Resources. Control of well drilling is handled by the division through the Water Well and Pump Installation Contractors Board. The Board is responsible for licensing of well drilling and pump installation contractors and has promulgated rules and regulations for the proper completion of wells.

Wells in the tributary system are regulated under rules and regulations; however, existing wells are allowed to furnish water to remedy injury to prior vested rights and are not curtailed if they do so.

The State Engineer is also responsible for the safe construction of dams and annual review of existing structures to insure safe storage levels. Plans and specifications for new structures or repair of existing structures are reviewed by members of the division staff and are approved or modified to assure a safe structure.

Water supply studies are required for new subdivisions and these plans when submitted to the counties are forwarded to the Division of Water Resources. They are analyzed to determine whether the supply is adequate for the proposed subdivision and whether or not such supply will interfere with prior existing rights or existing wells. The division either recommends approval or denial of the subdivision to the county entity based on determination of these facts.

Under the existing rules and regulations of the Mined Land Reclamation Board, the Division reviews permits for Mined Land Reclamation to determine if the proposed water supply plan is viable and if any interference with existing water rights will result from such operations.

Records on decrees, diversions, storage, stream flow measurements, wells, reservoirs, and climatological data are maintained on a current basis and are available from the Water Data Bank maintained by the Division.*

* Interview with William Smith, Deputy State Engineer, State of Colorado Division of Water Resources, March 9, 1977.

3.2.2.2 Organization *

The Division, which is headed by the State Engineer as executive director, administers the public waters of the State in accordance with statutes, court decrees, supreme court decisions, and interstate compacts. The State Engineer governs the use of both surface and subsurface water, supervises design, construction and maintenance of safe water storage control in all reservoir dams over 10' in height, measures water and collects information related to stream flows, controls the completion of wells, and administers the seven interstate compacts and decrees involving interstate streams.

The Division of Water Resources consists of the Office of the State Engineer, division engineers, the Ground Water Commission, The State Board of Examiners of Water Well and Pump Installation Contractors, and Irrigation District Commission.

While the State Engineer's office is in Denver, there are seven division offices located in Greeley, Pueblo, Alamosa, Montrose, Glenwood Springs, Steamboat Springs, and Durango. The administration of the waters of the State in each of these divisions is carried on through the Office of Division Engineers subject to supervision of the State Engineer. The Water Right Determination Act of 1969, while making no significant changes in the administration of the waters of the State, did make some rather drastic changes in the manner in which water rights were obtained or existing water rights were changed. Prior to this legislation such water rights were established in the district court for the water district in which the diversion occurred; however, the 1969 legislation provided for a water court to be located in each of the seven water divisions and all matters pertaining to water are referred to that district court.

3.2.2.3 Program Activities

- . Administer both surface and underground water.
- . Administer interstate streams to meet interstate and international compact commitments.
- . Assure safety of all dams in the State by approving plans and specifications for all new structures as well as repairs of existing structures prior to construction; make an annual review of all dams in the State and order repairs or rehabilitation as required.
- . Approve plans, specifications, and issue permits for construction of livestock water tanks.

* Interview with William Smith, Deputy State Engineer, State of Colorado Division of Water Resources, March 9, 1977.

- . Review and make recommendations to the referees for the water courts on each application for new water rights, changes in water rights such as changes in points of diversion, use, or alternate points of diversion.
- . Act on applications for subdivision filings to assure adequate water supply and that previous water rights or wells will not be insured.
- . Grant licenses to qualified water well and pump installation contractors; inspect drilling and pump installation operation in compliance with the rules and regulations for sanitary installation and maintenance of wells.
- . Grant or deny all applications for permits to construct and use water wells in accordance with proper statutes.
- . Serve as the Commissioner from Colorado on interstate compacts.
- . Analyze applications for development of geothermal resources as they might effect existing water rights.
- . Conduct quasi-judicial hearings at the request of any person dissatisfied with the decision of any water official within the Division of Water Resources.
- . Maintain a Water Data Bank which contains all records pertaining to water.
- . Collect and study data to determine sources of water supply.
- . Review plans of augmentation when submitted to the State Engineer for temporary approval when requested to do so by applicants.
- . Review the impact to water resources of proposed Mined Land Reclamation projects prior to their being permitted by the Mined Land Reclamation Board.
- . Review water supply plans for land development and recommend approval or denial to the Boards of County Commissioners.
- . Perform technical investigations.

3.2.2.4 Staffing and Budget

- . 209.4 full-time equivalents (FTE).
- . \$4.0 million (actual 1976-77)*

* Interview with William Smith, Deputy State Engineer, State of Colorado, Division of Water Resources, March 9, 1977.

3.2.3 Ground Water Commission

3.2.3.1 Functions

Title 37, Article 90, CRS 1973 directs the Ground Water Commission to conduct administration and planning, and issue of permits.

The Ground Water Commission is responsible for the administration of the ground waters found in designated ground water basins throughout the State. These basins are those as defined by statute whereby the ground water in its natural course would not be available to and be required for fulfillment of decreed surface rights, ground water in areas not adjacent to continuously flowing natural streams, or wherein ground water withdrawals have constituted the principal water usage for at least 15 years preceding the date of the first hearings on proposed designation of the basin. Further administration in these basins can be accomplished through the formation of a ground water management district (see section 6.10). These districts are ordered by the Ground Water Commission following petition by local residents, hearings, and elections. The State Engineer, the executive director of the Ground Water Commission issues conditional permits for wells or denies such applications based on policy guidelines of the Commission in conjunction with rules and regulations of the management districts. These conditional permits are valid for a period of one year after application to beneficial use. The owner establishes a water right which is secured by the issuance of a final permit by the Commission following investigations of the conditions of the application to beneficial use. Appeals to actions of the Commission are filed with the district courts in the counties in which the wells are located rather than the water courts as in matters of water outside of the designated basins. The ground water other than that in the designated basins is administered by the State Engineer.*

3.2.3.2 Organization

The Commission consists of 12 members, nine appointed by the Governor and three ex-officio. The executive director of the Department of Natural Resources, the State Engineer and the director of the Water Conservation Board are ex-officio voting members. The State Engineer is the Executive Director of the Ground Water Commission. He provides the staff and is responsible for carrying out and enforcing the decision and orders of the Commission. Eight districts exist in Colorado.

* Interview with William Smith, Deputy State Engineer, Division of Water Resources, State of Colorado, March 9, 1977.

3.2.3.3 Program Activities

- . Define "designated ground water basins", administer the water resources found therein according to established water rights and organize ground water management districts upon petition by local residents, hearings and elections.
- . Supervise and control the exercise and administration of all rights acquired for the use of ground water, including the power to prohibit or limit withdrawal of water from any well when injury would be caused.
- . Establish a reasonable ground water pumping level in an area of common supply.
- . Issue permits for the construction or replacement of wells.
- . Consult with ground water management district boards prior to modifying policy guidelines affecting the district.
- . Order the total or partial discontinuance of any diversion within a ground water basin if the water diverted is not beneficially used.
- . Prescribe measuring methods and withdrawal limits where there is no district.

3.2.3.4 Staffing and Budget

- . Not available separately from the Division of Water Resources.

3.2.4 Irrigation District Commission

3.2.4.1 Functions

Title 37, Article 42, CRS 1973 directs the Irrigation District Commission to serve as an information source for irrigation districts.

3.2.4.2 Organization

The Commission is composed of the State Engineer, Attorney General and State Bank Commissioner. It is a section of the Division of Water Resources and receives technical assistance as required from the Division.

3.2.4.3 Program Activities

- . Receive copies of meetings and elections of irrigation districts.

- . Serve as an information source about commissions, such as transactions and management.
- . Provide technical assistance to districts.*

3.2.4.4 Staffing and Budget

- . Not available separately from the Division of Water Resources

3.2.5 Colorado Geological Survey - Ground Water Section

3.2.5.1 Functions

Title 34, Section 1, CRS 1973 authorizes the Ground Water Section to conduct investigations and provide technical assistance.

3.2.5.2 Organization

The Ground Water Section is a very small part of the Survey which is involved primarily with geological investigations. The head of the survey, the director and State geologist serves under the executive director of the Department of Natural Resources. See Figure 3.2-A.

3.2.5.3 Program Activities

- . Assist government agencies as to ground water problems.
- . Investigate point source pollution to ground water resources.
- . Investigate ground water supplies.
- . Participate in cooperative studies with the United States Geological Survey.
- . Work with State Health Department on ground water pollution if a geologic perspective is needed.
- . Study geothermal resources.

3.2.5.4 Staffing and Budget

- . One full time equivalent (FTE).
- . \$30,760 (1976-77)**

* Interview with William Smith, Deputy State Engineer, Division of Water Resources, State of Colorado, March 9, 1977.

** Interview with Dick Pearl, Colorado Geological Survey, March 8, 1977.

3.2.6 Division of Parks and Outdoor Recreation

3.2.6.1 Functions

Title 33, Articles 30, 31 and 40-43, CRS 1973 authorize the Division of Parks and Outdoor Recreation to conduct planning and management.

3.2.6.2 Organization

The Parks and Outdoor Recreation Board consist of eight members, appointed by the Governor, and is involved in policy-making for the Division. The Division provides staff support and is only involved with water quality for recreational areas operated by the State.

3.2.6.3 Program Activities

- . Acquire land and water resources.
- . Construct needed facilities.
- . Enter into agreements.
- . Enforce laws and regulations relating to parks and recreation areas.
- . Manage state parks and recreation areas and promulgate necessary regulations.
- . Work with the Division of Wildlife to develop and protect wildlife habitat and provide opportunities for hunting and fishing.
- . Encourage water quality.

3.2.6.4 Staffing and Budget

- . 124 full time equivalentents (FTE).
- . \$3,949,837 (1976-77) (Department of Natural Resources, Budget Request for Fiscal Year, 1976-77).

3.2.7 Division of Wildlife

3.2.7.1 Functions

Title 33, Articles 1-8 and 20-23, CRS 1973, the Stream Preservation Act of 1973 and H.B. 1041 direct the Division of Wildlife to conduct research, management and enforcements.

The Division is involved with wildlife and their habitat. It is concerned with water quantity in the minimum stream flow program as well as water quality.

3.2.7.2 Organization

The Division is under the jurisdiction of the Wildlife Commission. The Commission has policy-making powers.

3.2.7.3 Program Activities

- . Acquire land and water resources.
- . Construct and operate needed facilities.
- . Enter into agreements.
- . Review State agency activities affecting streams, except irrigation projects.
- . Develop systems to fulfill responsibilities under H.B. 1041 and Stream Preservation Act of 1973 (Senate Bill 97).
- . Comment on Environmental Impact Statements.
- . Enforce State game and fish laws.
- . Conduct research on the environment and diseases of fish, game and other wildlife.
- . Aid in public access to fishing areas and production of fish.
- . Measure lakes and streams for water volume and make determinations as to necessary minimum flow.

3.2.7.4 Staffing and Budget

- . 546 full time equivalents (FTE), 2 - Minimum Stream Flow program.
- . \$14,629,721 (1976-77), total.
(\$50,000 Minimum Stream Flow program) (Department of Natural Resources, Budget Request for Fiscal Year, 1976-77).

3.2.8 Soil Conservation Board

3.2.8.1 Functions

Title 35, Article 70, CRS 1973 directs the Soil Conservation Board to conduct planning and administration of soil conservation activities.

The Board distributes approximately \$89,000 annually to the local districts for organization costs. Most of the Board's work involves supervision and coordination of the work of the districts. Expertise is not primarily directed toward water quality.

3.2.8.2 Organization

The Board consists of nine members; one member is appointed by the Governor and eight are elected from local soil conservation districts corresponding to the major watersheds.

3.2.8.3 Program Activities *

- . Promote and assist in the organization of soil conservation districts, hold hearings, determine feasibility and conduct elections and the necessary procedures to accomplish such organization or changes.
- . Prepare and present to the qualified voters, for their approval, uniform bylaws for the conduct of the business of the district.
- . Act in an advisory capacity with the board of supervisors of each district and coordinate the programs of all soil conservation districts.
- . Act as the State board of appeals for soil conservation districts.
- . Prepare a uniform and adequate system of accounting for districts, which may be adopted and used by all districts within the State.
- . Administer and disburse any funds made available to the State board for the purpose of assisting soil conservation districts in the conservation of soil and water resources; lend money to districts.
- . Undertake studies of watershed planning and undertake development of watershed flood prevention and underground water storage projects.
- . Obtain options upon and acquire property.
- . Erect structures and maintain any facilities to arrest or prevent the erosion of soils or lands, improve the watershed and prevent floods, and increase underground water reserves.
- . Accept grants, services and materials and borrow money.

3.2.8.4 Staffing and Budget (Appropriations Report 1976-77)

- . Four full time equivalents (FTE).
- . \$210,439 (1976-77)

* Interview with Al Campbell, State of Colorado Soil Conservation Board, March 6, 1977.

3.3 AGENCIES OF THE DEPARTMENT OF HEALTH

The State Department of Health is involved with air and water pollution in addition to numerous other programs. County, city-county or district or regional health departments may also be established. The local health departments have powers and duties in administering and enforcing laws pertaining to public health and vital statistics, together with orders, rules, regulations and standards established by the State Board of Health.

There are 10 councils, commissions, committees and registration boards which influence the activities and responsibilities of the Department of Health, including the Water Pollution Control Commission.

The Water Pollution Control Commission has responsibility for establishing standards for all State waters, adopting regulations and developing a State-wide control program.

The Water Pollution Control Division serves to carry out the Commission's programs and enforce provisions of the law. See Figure 3.3-A for the Departmental organization.

3.3.1 State Board of Health

3.3.1.1 Functions

The State Board of Health was created by Title 25, Articles 1 and 10, CRS 1973. The Board is responsible for setting State-wide health rules and regulations. Local health agencies enforce these rules and regulations within their jurisdictions.

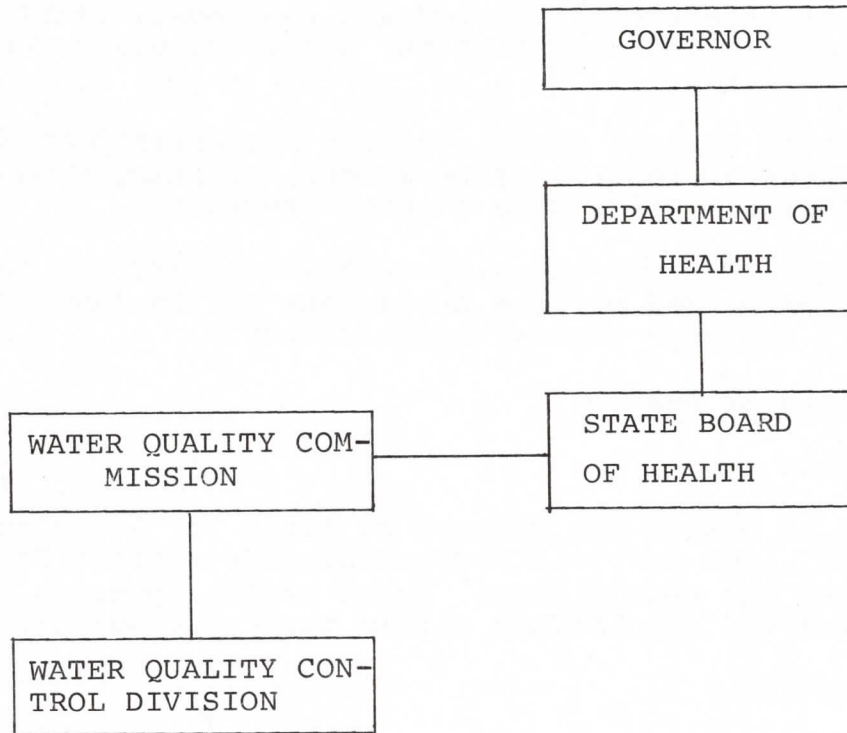
3.3.1.2 Organization

The State Board of Health consists of nine members appointed by the Governor. Members are selected from each of the five State Congressional Districts and four are chosen at large.

3.3.1.3 Program Activities

- . Enforce minimum sanitary standards pertaining to public water supply.
- . Enforce sanitary standards for the operation and maintenance of facilities including swimming pools and public baths.
- . Establish rules and regulations for individual sewage disposal systems.
- . Establish rules and regulations and criteria required for review of solid waste disposal sites including coordination procedures with local boards of county commissioners and municipalities.

FIGURE 3.3-A



Source: Organization Chart of Colorado, Department of Health, October, 1976.

3.3.1.4 Staffing and Budget

- . Not available from the State Board of Health.

3.3.2 Water Quality Control Division

3.3.2.1 Functions

Title 25, Article 8, CRS 1973 directs the Water Quality Control Division to conduct planning, administration and enforcement relating to water quality. It is involved both with administration of the Colorado Water Quality Control Act and the Federal Water Pollution Control Act, as amended. The Division also has responsibility for 208 planning in the non-designated areas of the State.

The Division administers grants -- the Water Quality Control Commission has the responsibility for administration of grants, but the Division provides staff assistance and makes recommendations for funding.

- . Federal construction grants for waste water treatment works are based on the degree of water pollution occurring in an area. The EPA provides 75% of the cost and local governments put up 25%. The Division processes grants and site applications and prepares operation and management manuals. However, the Federal Government makes the major decisions for the allocations. Last year the program involved \$43 million in Colorado; no allocation has been made for fiscal year 1977.
- . State construction grants are made to communities which have under 5,000 population. The communities apply to the Division of Local Affairs which reviews the fiscal need of the community. The Division of Local Affairs assigns a percentage of grant based on fiscal need. The percentage ranges between 25% and 100% of the costs. The Water Quality Control Division evaluates the site and analyzes water pollution aspects. The total for this program for fiscal year 1976 was \$2.15 million. (See the report on the Division of Local Governments, section 3.5).

3.3.2.2 Organization

For the operations of the Division, the State is divided geographically into ten districts. These do not conform to the Division of the State Engineer's office. Each district is under the direction of a district engineer. District offices are established in four outlying districts of the State, with offices in Grand Junction, Fort Collins, Pueblo, and Montrose. District offices will be activated in LaJunta, Alamosa, Glenwood Springs and Steamboat Springs.

The other three districts in central Colorado are staffed by district engineers with offices in Denver. Each district en-

gineer is responsible for the water quality control activities in his district. Engineering technicians also are headquartered in the outlying district office. The remainder of the Division's staff is headquartered in the Denver central offices.

District engineers inspect wastewater treatment plants, assist treatment plant operators, inspect sites for proposed plants, conduct monitoring or discharges, serve as Division liaison to units of local government, and coordinate spill clean up activities.

3.3.2.3 Program Activities

- . Administer and enforce the water quality control programs adopted by the Water Quality Control Commission.
- . Issue discharge permits to municipalities and industries specifying allowable discharge limits and set compliance schedules if treatment and control facilities are inadequate.
- . Promote the development of wastewater treatment facilities in cities, districts and other urban areas, and waste treatment facilities for industries.
- . Process and administer Federal and State grants for municipal wastewater treatment plant construction.
- . Inspect and provide technical assistance to existing waste treatment works.
- . Collect basic data regarding the physical, chemical, biologic and radiological quality of State surface and ground waters.
- . Conduct comprehensive studies and surveys to determine the sources and extent of water pollution and determine compliance with the water quality standards.
- . Monitor discharges to State waters and determine their compliance with discharge permit conditions and the discharge standards.
- . Conduct a continuing planning process for coordinated waste treatment management for the entire State.
- . Enforce the provisions of the Colorado Water Quality Control Act and the water quality control regulations established by the Commission.
- . Investigate complaints, hold administrative hearings, train waste treatment plant personnel and prepare reports and public information pertinent to the promotion of water pollution control.

3.3.2.4 Staffing and Budget *

- . 44 full time equivalents (FTE) (Appropriations Report 1976-77).
- . \$937,208 (1976-77)

3.3.3 Water Quality Control Commission

3.3.3.1 Functions

Title 25, Article 8, CRS 1973 directs the Water Quality Control Commission to engage in planning, policy-making and enforcement.

The State Board of Health does have administrative responsibility over the Commission, but the Commission has a great deal of autonomy. The Commission works to a small degree with local sub-units of the Health Department. The Commission administers grants and approves site applications, but the actual work and a good deal of the decision-making occurs within the Water Quality Control Division. The Commission operates with a minimal support staff and budget.

3.3.3.2 Organization

There are 11 members including one from the State Board of Health or its staff, one from the Wildlife Commission or its staff, one from the Water Conservation Board or its staff, the executive director of Department of Natural Resources and seven citizens of the State appointed by the Governor. The Governor appoints the chairman. The Commission is the State water pollution control agency for purposes of the Federal Water Pollution Control Act Amendments of 1972 and is authorized to take any action necessary to secure the benefits of the act.**

3.3.3.3 Program Activities

- . Develop and maintain a comprehensive and effective program for prevention, control and abatement of water pollution.
- . Promulgate water quality standards.
- . Promulgate control regulations.
- . Promulgate waste discharge permit regulations.

* Interview with Ken Webb, Water Quality Control Division, March 10, 1977.

** Interview with Evan D. Dildine, Colorado Department of Health, Water Quality Control Division, March 7, 1977.

- . Perform duties relative to location, design, construction and operation of sewage treatment plants. Septic tanks or small sewage treatment works (those serving under 20 people) are reviewed by local health departments.
- . Review application for underground discharges.
- . Review local government regulations for individual sewage disposal systems and promulgate control regulations for areas involved.
- . Issue and enforce rules and orders, but it is not an appellate body to review decisions.
- . Approve and allocate State construction grants for sewage treatment plants.

3.3.3.4 Staffing and Budget *

- . Three full time equivalents (FTE)
- . \$57,560 (1976-77)

3.4 DEPARTMENT OF AGRICULTURE

This Department, created in 1949, performs regulatory and inspection services related to agriculture and agricultural products, promotes the sale of agricultural products and controls livestock and pesticides. The head of the Department, the Commissioner of Agriculture, is appointed by the Governor. The Governor also appoints a nine-member Agriculture Commission, which advises and directs the Commissioner in terms of policy. Eight of the members are chosen utilizing the five Congressional Districts; the other member is chosen at large. The Commission advises the Governor and Commissioner of Agriculture concerning agriculture in the State. The Department has employees both in Denver and in field offices. These employees are primarily involved in inspection. ("The Colorado Department of Agriculture", 1974.)

Although the Department has no statutory responsibility regarding water management or regulation, it is increasingly involved in water policy development. See Figure 3.4-A for the Departmental organization.

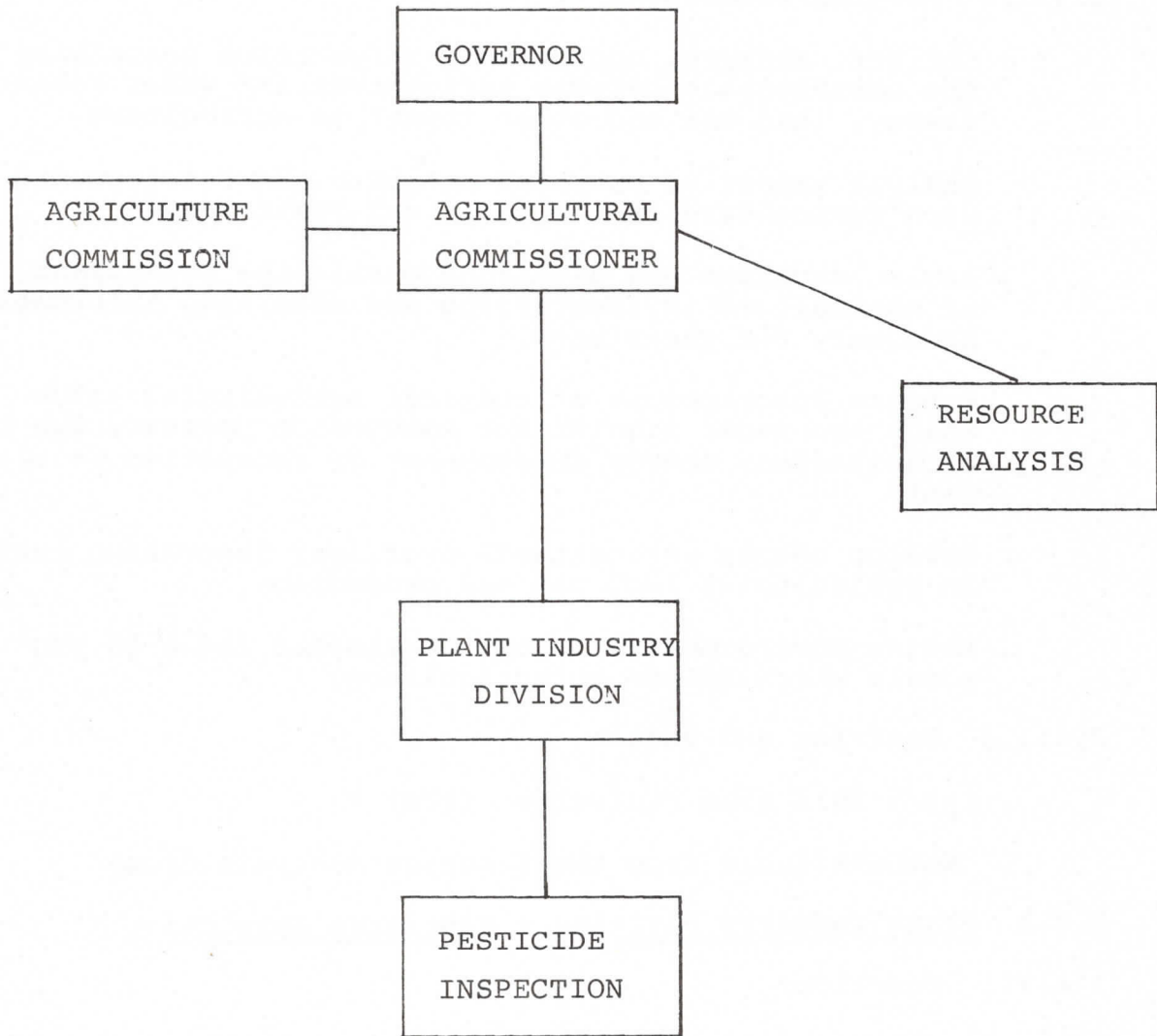
3.4.1 Resource Analysis Group

3.4.1.1 Functions

Title 35, Article 1, CRS 1973 authorizes the Resource Analysis Group to conduct Research related to the inputs of agriculture,

* Interview with Evan D. Dildine, Colorado Department of Health, Water Quality Control Division, March 7, 1977.

FIGURE 3.4-A



Source: Organization Chart of State Government of Colorado, December, 1974.

i.e., land, water, energy, labor, etc. The Resource Analysis Group also assists in representing the Department in inter-agency efforts.

3.4.1.2 Organization

The Resource Analysis Group serves under the Agricultural Commissioner.

3.4.1.3 Program Activities

- . Collect, analyze, and present information describing the relationship between agriculture and water resources, energy, land use and other inputs to agriculture.
- . Analyze impact of proposed projects and developments upon agriculture at the local and State level.
- . Assist sections and divisions within the Department of Agriculture in identifying and obtaining information necessary for their work.
- . Prepare descriptions of critical agricultural lands which are under significant conversion pressure due to urbanization, energy development or recreation development.
- . Develop county agricultural profiles, describing trends in agricultural land use and production.
- . Review environmental impact statements and A-95 proposals which relate to agriculture.

3.4.1.4 Staffing and Budget

- . 1-1/2 full time equivalent (FTE).*
- . Not available from the Resource Analysis Group

3.4.2 Plant Industry Division - Pesticide Inspection **

3.4.2.1 Functions

Title 35, Articles 10 and 11, CRS 1973 direct the Plant Industry Division to enforce regulations and permit pesticides and applicators.

The Division has powers of enforcement relating to unlicensed or dangerous application of pesticides causing water pollution.

* Interview with David Carlson, Resource Analysis, Department of Agriculture, November 3, 1976.

** Interview with Robert Sullivan, Director, Plant Industry Division, Department of Agriculture, March 7, 1977.

3.4.2.2 Organization

The Division serves under the Deputy Commissioner of Agriculture.

3.4.2.3 Program Activities

- . Register all pesticides offered for sale.
- . License dealers who sell pesticides.
- . License applicators.
- . Enforce appropriate statutes.

3.4.2.4 Staffing and Budget

- . Six full time equivalents (FTE).
- . \$138,434 (1976-77)

3.5 AGENCIES OF THE DEPARTMENT OF LOCAL AFFAIRS

The Department's executive director is appointed by the Governor. The Office of Rural Development is responsible to the assistant director. This office coordinates activities of divisions of the Department of Local Affairs as they affect rural community development and non-metropolitan planning. The assistant director also serves as the Governor's Alternate to the Four Corners Regional Commission. (See section 3.5.3.)

The following agencies dealing with water and land resources exist under the Department: Rural Development, Commerce and Development, Local Government and Planning, and the State 208 Coordinator. The Department has a total staff of approximately 240 employees. (Colorado Department of Local Affairs.) See Figure 3.5-A for the Departmental breakdown.

3.5.1 Division of Local Government

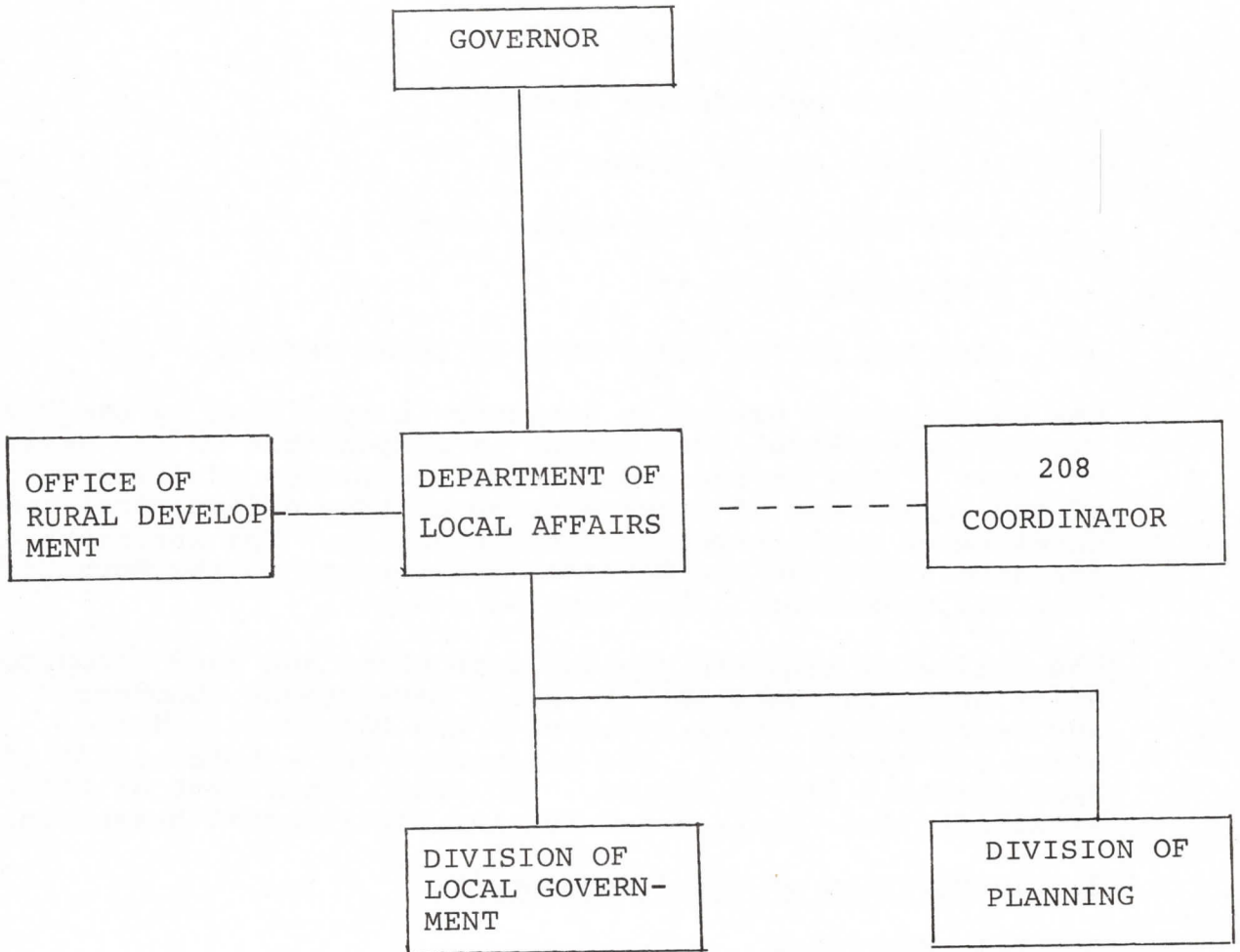
3.5.1.1 Functions

Title 24, Article 32, CRS 1973 directs the Division of Local Government to conduct research, provide technical assistance and administer grants.

The Division administers three grant programs:

- . State sewage construction grants for communities under 5,000 population. Funding for this year has not been determined. The Division funds the grants. The sole criteria for these grants is fiscal need.
- . Predesign Planning Grant -- the sole criteria is confirmation by the Health Department that because of environmental problems, new sewage treatment works are necessary.

FIGURE 3.5-A



Source: Organization Chart of the State of Colorado
December, 1974.

The program is also funded by the Division. Exact funding has not been determined for this year.

- . Emergency water and sewer grant program grants are available for emergencies that jeopardize the health, safety or welfare of the citizens. The Division funds the program. Exact funding has not been determined. *

The Division also conducts the excess levy approval and budget review program -- statutory cities, counties and special districts file budgets with the Division. If the budget is in excess of statutory limitations, the Division reviews them and approves them if they are appropriate.

Funds from H.B. 1041 pass through the Division, although the Division of Planning actually administers the program. The Division provides joint purchasing for local governments. It also has control over the Conservation Trust Fund.

3.5.1.2 Organization

The Division serves under the executive director of the Department of Local Affairs.

3.5.1.3 Program Activities

- . Refer local government to appropriate departments and agencies of the State and Federal Government for advice, assistance and available services in connection with specific problems.
- . Perform research.
- . Publish an annual compendium of local government fiscal data.
- . Provide technical assistance.
- . Establish and maintain a current file listing by name all special districts, incorporated towns, cities and counties of the State.
- . Receive and file a copy of any municipal (or special district) annexation, consolidation, merger, detachment of dissolution action.
- . Review and approve or reject requests from local governments (home-rule cities and school districts are excluded) for authorizations to increase their levy to raise revenues beyond seven percent.

* Interview with J.D. Arehardt, Director, Division of Local Government, March 6, 1977.

- . Receive, and in some cases, certify certain filings of records of formation, boundary changes, elections, etc., of urban renewal authorities, metropolitan water districts, metropolitan sewage districts, regional service authorities, regional transportation districts, mine drainage districts, flood control districts, soil conservation districts and airport authorities.

3.5.1.4 Staffing and Budget (Appropriation Report, 1976-77)

- . 15 full time equivalents (FTE), one working in water and sewer problems).
- . \$2,656,308 (1976-77 - Includes H.B. 1041)

3.5.2 Division of Planning

3.5.2.1 Functions

Title 24, Article 32 and H.B. 1041 authorize the Division of Planning to engage in planning, conduct research and provide technical assistance.

The Division is indirectly involved in water through its planning and research functions. It supervises distribution of 701 funds. It is responsible for administration of the 1041 program, although the funds for the program pass through the Division of Local Government.

3.5.2.2 Organization

The Division is under the executive director of the Department of Local Affairs.

3.5.2.3 Program Activities

- . Prepare population projections on a Statewide basis which support and give direction to water resource planning.
- . Supervise State programs under Section 701 of the Housing Act of 1954 as amended, providing for grants to assist State and local governments and other planning agencies to solve planning problems.
- . Exchange reports and data which relate to State planning with other departments, institutions, and agencies of the State and on a mutually agreed basis with towns, cities, counties and other local agencies.
- . Advise the Governor and the General Assembly on all matters of State-wide planning, and consult with other offices of State government with respect to matters of planning affecting the duties of their offices; recommend

to the Governor and the General Assembly any proposals for legislation affecting local, regional, or State planning.

- . Stimulate and assist the planning activities of other departments, institutions and agencies, and of regional, county and municipal planning authorities.
- . Participate in comprehensive interstate planning.
- . Provide planning assistance upon request to any town, city, city and county, county, regional areas or any group of adjacent communities having common or related planning problems.
- . Make studies and inquiries relevant to State planning.
- . Accept and receive grants and services from the Federal Government, other State agencies, local governments, and from private and civic sources.
- . Act as reviewing authority or otherwise provide cooperative services under any federal-state planning programs.

3.5.2.4 Staffing and Budget *

- . 16 full time equivalents (FTE)
- . \$1,385,011 (actual 1976-77)

3.5.3 Office of Rural Development **

3.5.3.1 Function

Title 24, Article 32 directs the Office of Rural Development to conduct planning and research.

The Office participates in water programs through the Four Corners Regional Commission, its economic development planning program and through its general powers.

3.5.3.2 Organization

The Office serves under the executive director of the Department of Local Affairs. It coordinates activities of other divisions relative to rural affairs.

* Interview with John McLucas, Division of Planning, March 6, 1977.

** Interview with Glen Kissinger, Office of Rural Development, March 8, 1977.

3.5.3.3 Program Activities

- . Coordinate activities of the various divisions within the Department of Local Affairs.
- . Cooperate with and provide technical assistance to local officials for the orderly development of rural Colorado.
- . Encourage, and when requested, assist local governments to develop mutual and cooperative solutions to rural community development.
- . Study the legal provisions that affect rural development and recommend to the Governor and the General Assembly such changes and provisions as may be necessary to encourage rural development.
- . Serve as a clearinghouse for rural development information, including State and Federal programs designed for rural development.
- . Carry out studies and analyses of rural development in the State with particular emphasis on its effect on population dispersion and economic opportunity.
- . Contract with the Federal Government or any agency and receive any grants for purposes of rural development in Colorado.
- . Prepare a Statewide economic development plan (302 Program).
- . Participate in Four Corners Regional Commission programs. These economic development supplementary grant and technical assistance programs have included water and sewage grants and water management studies. They are based on economic development needs.

3.5.3.4 Staffing and Budget

- . 12 full time equivalents (FTE).
- . \$111,781 (1976-77) *

3.6 LAND USE COMMISSION

3.6.1 Function

Title 24, Article 65, CRS 1973 directs the Land Use Commission to engage in regulation and provide technical assistance.

* Interview with Budget Director, Department of Local Affairs.

The Commission is involved in water through its role in the 1041 program as well as its emergency powers. The Commission monitors subdivision growth (Senate Bill 35). It is also involved in land use problems throughout the State. This function takes about 80% of the Commission's time. It researches, mediates and involves State agencies (e.g., Water Resources for water problems) in local problems. It serves as a lead agency in dealing with these problems.

3.6.2 Organization

The Land Use Commission consists of nine members appointed by the Governor. The Commission serves directly under the Governor. Figure 3.6-A illustrates the Departmental breakdown.

3.6.3 Program Activities

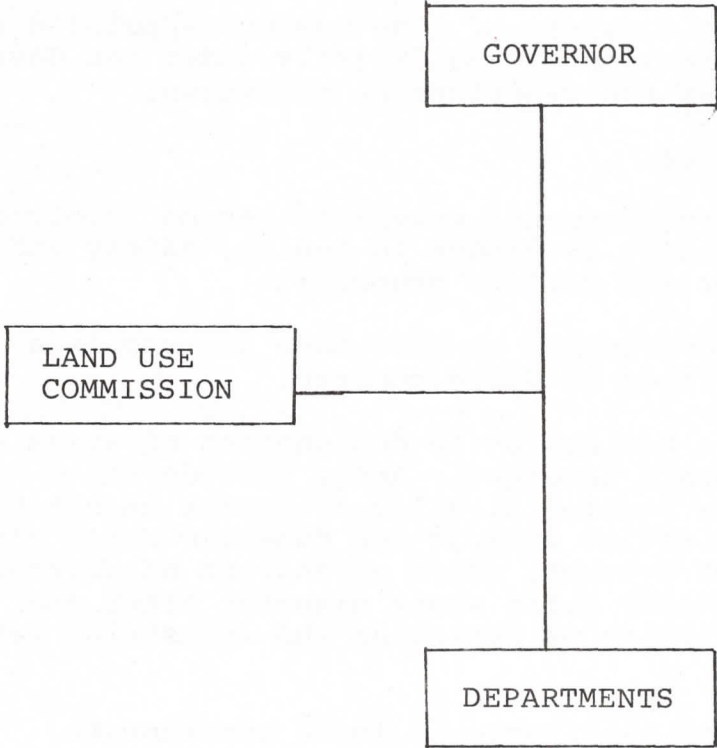
- . Utilize temporary emergency powers to become involved in projects if there is danger to health, safety and welfare of major and serious proportion.
- . Request local governments to designate and regulate areas and activities of State concern.
- . Issue guidelines and assist in designation of areas and activities of State interest. Areas include flood plains and areas bearing significant impact on natural resources. Activities include new domestic water and sewage treatment systems, major extensions of water and sewer systems, major solid waste disposal sites and efficient utilization of municipal and industrial water projects.
- . Provide technical assistance to local governments.

3.6.4 Staffing and Budget

- . Nine full time equivalents (FTE).

\$204,000 (1976-77)

FIGURE 3.6-A



Source: State of Colorado Organization Chart, December, 1974.

4.0 REGIONAL INSTITUTIONS

4.1 INTRODUCTION

Regional approaches to urban and rural service delivery needs have become more popular (at least in theory) in recent years as an institutional form for the planning, coordination and delivery of urban or rural services. As a practical matter, regional agencies in Colorado have functioned primarily in the areas of service delivery. The reluctance on behalf of local governments to give up some of their powers to a new level (regional) of government has restricted the application of the concept. The requirement in PL-92-500 for "areawide" planning renews the need to assess regional institutions as a part of the 208 water quality program.

The regional institutions evaluated herein do not have the independent political or financial powers to function in other than planning and coordinative roles of the 208 program except for Regional Service Authorities which have permissive legislative standing in the State, but are yet to be created by any region of the State. COG's and Regional Planning Commissions can play an important role in the 208 program, but their responsibilities must be carefully structured.

4.2 COUNCILS OF GOVERNMENTS

4.2.1 Functions

The term "Council of Governments" is not mentioned in Colorado law. Title 29, Article 1, CRS 1973 provides that counties, cities, towns and special districts may cooperate through inter-governmental agreements with other governments and districts. Governments may cooperate or contract to provide any function, service or facility lawfully authorized to each of the units; each party must authorize this with the approval of its legislative body or other authority. Any contract may provide for exercise of the function, service or facility including the establishment of a separate legal entity to do so.

Intergovernmental agreements have been utilized in the form of mutual aid agreements, police dispatching, contracting for services, joint occupancy, joint purchasing and personnel administration. (University of Colorado Bureau of Government Research and Service, 1969)

COGs possess only the powers granted to them by municipalities and as such, are subject to their will. They perform planning, collect data and act as forms for intergovernmental coordination. COGs provide "A-95 review" (Office of Management and Budget, 38 FR 2874 [November 28, 1973]). There are 12 COGs in Colorado.

4.2.2 Organization

COGs are established by member governments through "Articles of Association".

4.2.3 Statutory Powers and Authority

Governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt, only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to approve.

Any such contract shall set forth fully the purposes, powers, rights, obligations and the responsibilities, financial and otherwise, of the contracting parties.

Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.

Any such contract may provide for the joint exercise of the function, service, or facility, including the establishment of a separate legal entity to do so.

Without specific delegation of powers by the cooperating governments, the COG simply does not have them. See Colorado Attorney General Opn. #74-0036 (September 30, 1974).

4.3 REGIONAL PLANNING COMMISSION

4.3.1 Functions

Title 30, Article 28, CRS 1973 authorizes formation of Regional Planning Commissions to conduct planning. RPCs must make and adopt a regional plan provided that it shall not be effective within boundaries of incorporated municipalities unless it is adopted by the governing body and planning commission of the municipality or county. If adopted by municipalities, it will have the same effect as though made and adopted by the municipal planning commission.

In order to assure adequate time for the preparation of the plans, which are specified as the primary responsibility of the RPC, the terms of membership of a governing body in the RPC must be not less than three years. Any county or municipality adjacent to the area under jurisdiction of an RPC may be included in the RPC by the agreement of the counties or municipalities and the governing bodies which are members of the RPC.

Members of the RPC may withdraw if they desire after the three year requirement is satisfied. Two RPCs exist in Colorado.

4.3.2 Organization

Regional Planning Commissions (RPC) may be formed by (1) a municipality (ies) together with a county (ies) in which municipality (ies) are located or adjacent counties, (2) or municipality (ies), acting independently of the county in which the municipality is located or (3) two or more counties.

The RPC will be comprised of the area within the jurisdiction of the member governments. The number and qualifications of members of the RPC, their terms, method of appointment or removal is subject to that agreed by the members. Each participating county or municipality is entitled to at least one voting representative. The RPC elects its chairman who serves for one year with eligibility for re-election. Member governments may assign staff or may make studies for the commission. Expenses borne by governments are determined by cooperating entities. A government may be in more than one RPC.

4.3.3 Statutory Powers and Authority

- . Hire employees.
- . Contract for services.
- . Receive grants.
- . Sue and be sued.
- . Adopt articles to regulate and govern its affairs.
- . Perform functions of a county planning commission (to the extent provided for in resolution adopted by county commissioners).

4.4 REGIONAL SERVICE AUTHORITY

4.4.1 Functions

Title 32, Article 7, CRS 1973 provides that Regional Service Authorities may be established to provide planning and operation and maintenance of facilities and services.

The Regional Service Authority concept was created by the 1972 Legislature to "encourage the utilization of single service authorities to provide functions, services and facilities which transcend local government boundaries." A goal is the reduction in the number of special districts. A county or municipality may relinquish control of all or part of an authorized service at its option.

Regional Service Authorities provide specified services on a regional basis but don't possess law-making powers normally associated with general purpose governments. They are not granted police powers. They provide only services approved by voters. Their establishment would not automatically absorb or dissolve special districts. This would require voter approval. There are two ways to accomplish this: (1) the governing body of the special district can designate the Regional Service Authority Board to act as board for special district or (2) by amending Special District Dissolution Act of 1970. The Board of Directors of the Regional Service Authority could initiate proceedings to dissolve the special district.

All services must be approved by majority of voters in each county involved. It may provide services in conjunction with local government or exclusively.

No Regional Service Authorities exist at the present time.

4.4.2 Organization

Proceedings for the establishment of the service authority may be initiated by a petition of citizens or a resolution adopted by a majority of the governing bodies within the proposed service authority area. The area to be included in the service authority will thus be determined by those who petition or resolution. Any two or more contiguous counties may form a service authority, but the boundaries must include the entire area of each county involved.

It would be governed by a board of directors. Members would be elected at general elections. Services that may be provided include the following:

- . Domestic water collection, treatment and distribution.
- . Urban drainage and flood control.
- . Sewage treatment, collection and disposal.
- . Public surface transportation.
- . Collection and disposal of solid waste.
- . Parks and recreation.
- . Libraries.
- . Fire protection.
- . Hospital, including convalescent nursing homes, and any other health and medical care facilities or services, and ambulance services.

- . Museum, zoos, art galleries, theatres, and other cultural facilities.
- . Housing.
- . Weed and pest control.
- . Management services.
- . Local gas or electric services.

4.4.3 Statutory Powers and Authority

- . Levy taxes including ad valorem taxes, service charges and fees. Limitations upon the maximum ad valorem tax mill levy which may be used for the support of any service are established at the time that the service is authorized by the voters.
- . Accept and use grants.
- . Share in system of state collected, locally shared taxes.
- . Issue bonds for acquisition, construction or completion of facilities with voter approval.
- . Hire employees.
- . Establish special taxing districts to assure that residents who benefit from services pay for them.
- . Adopt and enforce needed regulations.
- . Plan for the territory in the RSA and review of local plans.
- . Construct, operate and maintain needed facilities.
- . Borrow money and incur indebtedness.
- . Acquire property.
- . Eminent domain.
- . Levy special assessments.
- . Review local government capital construction or federal grants-in-aid projects proposed by local governments.

5.0 LOCAL GOVERNMENT AGENCIES

5.1 INTRODUCTION

The institutional and financial capabilities possessed by the various forms of local government, i.e., towns, cities and counties, suggest that they are well equipped to play a key role in the 208 management system.

Cities and towns have historically been directly involved in waste water activities. This experience when coupled with their land use powers and their ability to raise funds, reinforces the concept of continuing cities and towns in a significant role in the 208 program management structure.

Counties, who have the statutory capacity to be in the waste water business, but historically have not, are also candidates for a role in the 208 program. Their land use and financial powers are very much like cities and towns. They provide a good base for dealing with the complexities of the 208 program. In addition, the regulatory role historically played by counties through their health departments suggests a continuing involvement in some portion of the 208 regulatory structure.

5.2 STATUTORY MUNICIPALITIES

5.2.1 Functions

Statutory cities and towns derive their sole powers from constitutional authority which is defined by general law. Statutes granting powers to cities and towns must be strictly construed and no powers may be exercised except those which are expressly conferred or which are implied.

Statutory cities and towns have broad powers related to water and land resources. They may construct, maintain and extend sewerage facilities. They have the authority to deal with non-point pollution. The police power gives municipalities substantial power in protecting the health, safety and welfare of citizens. All municipalities have the power to raise revenues through property and sales taxes.

5.2.2 Organization (Local Government in Colorado)

The General Assembly has established three classes of municipal corporations which are based on population, as follows:

First Class Cities - Those with a population exceeding 70,000.
Second Class Cities - Those with a population greater than 2,000.
Towns - Those with a population of less than 2,000.

- First class cities of the statutory type are limited to a single organizational form -- the so-called "weak mayor-council" plan, under which the voters must elect

a mayor, a council, a city attorney, a city treasurer, a city clerk, a city auditor, and a city engineer. The voters of the community have no voice in determining the scope of authority of any of these officers as their duties and powers are set by State law. The city council must be elected on a ward system, and the terms of office are limited to two years.

- . Second class cities of the statutory type may be organized under either of two basic statutory plans: weak mayor-council, or council-manager.

- Under a weak mayor-council plan, the mayor is elected and has only limited powers over official appointments, the budget, and administrative organization. He is the ceremonial chief of the city and is responsible for preserving law and order in the community. The mayor also presides at council meetings, although he votes only in case of ties and in certain other specific situations. The mayor in second class cities has veto power over municipal ordinances, but the council may override this veto by a two-thirds majority.

Figure 5.2.2-A presents government organization of second class mayor-council cities.

- The council-manager plan must be initiated by a petition signed by electors equal in number to 15 percent of the votes cast for all candidates for mayor at the last preceding city election. The council must then order the question submitted to the voters at a special or regular election within sixty days after the passage of the ordinance. The corporate and policy authority of the city remains in the council. A mayor and mayor pro tem are selected from the council. The mayor presides at council meetings and votes as a member of the council. The administration of the city government is vested in a manager, and the council is prohibited from interfering with the manager's appointment or removal of subordinate employees or in his administration of municipal programs.

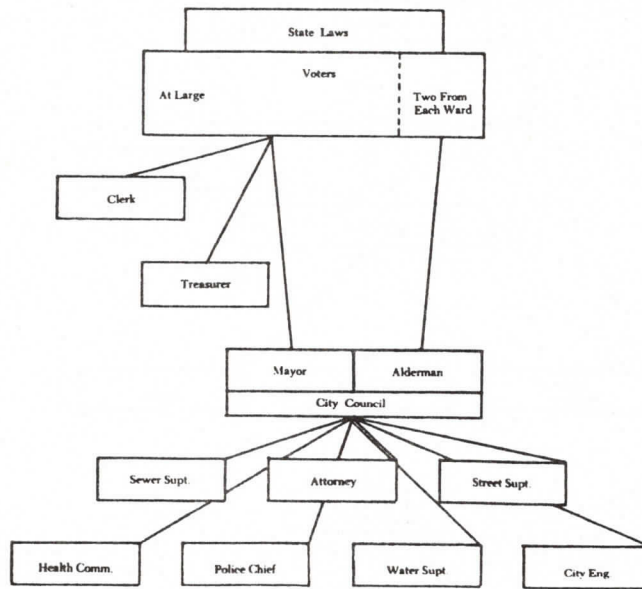
Figure 5.2.2-B illustrates the organization of statutory council-manager cities.

- . Towns are obligated to accept the single form permitted by the State statute. They must have a board of trustees, consisting of a mayor and six trustees. The mayor serves as presiding officer and votes only in case of tie. The board serves in both legislative and executive capacities. The terms of office for trustees are constitutionally limited to two years.

See Figure 5.2.2-C for organization of towns.

FIGURE 5.2.2-A

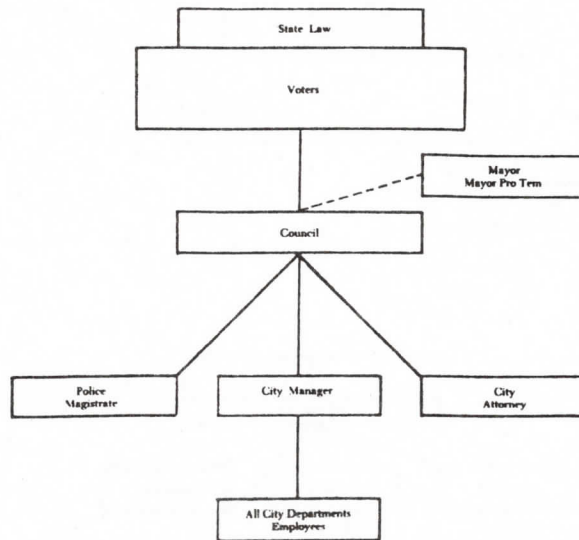
**GOVERNMENT ORGANIZATION,
2ND CLASS MAYOR-COUNCIL CITY**



Source: Local Government in Colorado, Governor's
Local Affairs Study Commission, 1966.

FIGURE 5.2.2-B

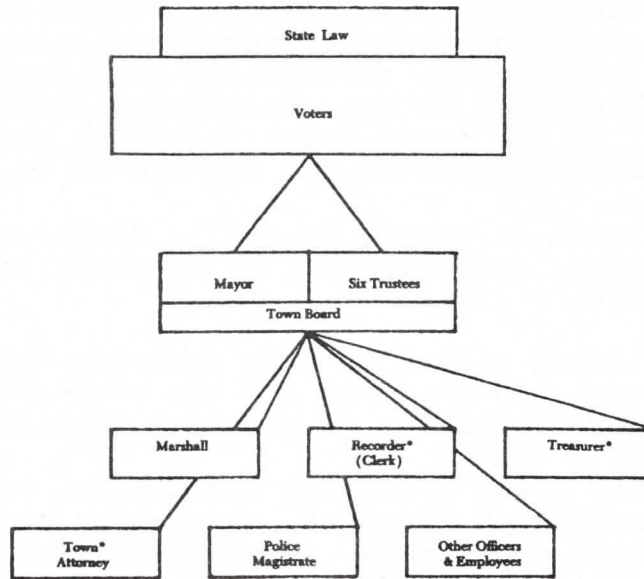
**GOVERNMENT ORGANIZATION,
2ND CLASS COUNCIL-MANAGER CITY**



Source: Local Government in Colorado, Governor's
Local Affairs Study Commission, 1966.

FIGURE 5.2.2-C

**GOVERNMENT ORGANIZATION
OF TOWNS**



**May be elected, if so provided by ordinance.*

Source: Local Government in Colorado, Governor's Local Affairs Study Commission, 1966.

5.2.3 Statutory Powers and Authority

5.2.3.1 Waste Water and Water Systems

Title 31, Articles 25 and 35 provide that statutory cities and towns have the following powers:

- . Acquire by gift, purchase, lease or exercise of the right of eminent domain, construct and extend water facilities or sewerage facilities within or wholly without the municipality.
- . Operate and maintain water facilities or sewerage facilities, or both for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the municipality, but no water service or sewerage service, or combination of them, may be furnished in any other municipality unless the approval of the other municipality is obtained as to the territory in which the service is to be rendered.
- . Accept loans or grants to aid in financing the cost of engineering, architectural or economic investigations; or studies.
- . Accept loans, grants or both from the United States under any federal law in force for the construction of necessary water facilities or sewerage facilities.
- . Enter into joint operating agreements, contracts, or arrangement with consumers concerning water facilities or sewerage facilities. When determined by its governing body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, but in no event exceeding fifty years, with any consumer for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of wastes by a consumer and the payment periodically by the consumer to the municipality of amounts at least sufficient, in the determination of the governing body, to compensate the municipality for the cost of providing, including payment of principal and interest charges, if any, and of operating and maintaining the sewerage facilities serving the consumer.
- . Prescribe, revise, and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected or receiving service, rates, fees, tools and charges; issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of the water facilities or sewerage facilities.

- . Pledge to the punctual payment of said bonds and interest all or any part of the revenues of the water facilities or sewerage facilities.
- . Enter into and perform contracts and agreements with other municipalities for or concerning the planning, construction, lease, or other acquisition and the financing of water facilities or sewerage facilities, and their maintenance and operation. Any such municipalities contracting with each other may also provide in any contract or agreement for a board, commission, or such other body as their governing bodies deem proper for the supervision and general management of the water facilities or sewerage facilities and for the operation and may prescribe its powers and duties and fix the compensation of the members.
- . Issue water or sewer, or joint water and sewer, refunding revenue bonds to refund, pay or discharge all or any part of its outstanding water, or sewer, or joint water and sewer, revenue bonds issued.
- . Require connection to central sewage facilities if necessary for health, safety and welfare of the citizens.

5.2.3.2 Revenue Measures (Tax Lead Time Study, Briscoe, Maphis, Murray and Lamont, 1974)

- . Revenue Alternatives - Statutory cities and towns have the same revenue measures available for their use. These include:
 - General Sales Tax (total sales tax imposed by the State, county or municipalities outside of the Regional Transportation District (RTD) may not exceed 7%. The limit is 7-1/2% inside the RTD area).
 - Use Tax may be levied on construction and building materials only and on all motor vehicles on which registration is required.
 - Ad Valorem Property Tax - subject to extensive statutory provisions (30-20-514, CRS 1973).
 - Occupation Tax - legal.
 - User Fees - legal.
- . Bonding
 - General Obligation Bonds - Total debt may not exceed 3% of actual value of taxable property.

- Revenue Bonds - may be issued without statutory limitation for water and waste water.
- Special Assessment Bonds - legal.
- Industrial Development Bonds - legal subject to statutory provisions (29-3-101, 103 and 105, CRS 1973).

5.3 HOME RULE MUNICIPALITIES

5.3.1 Functions (Inventory of Existing Institutions)

Colorado cities having populations in excess of 2,000 have been able to adopt a large measure of home rule authority. A home rule charter provides for governmental organization and becomes the basic law for all matters of "local and municipal concern". The constitution provides that "the statutes of the State of Colorado, so far as applicable, shall continue to apply to such cities and towns, except insofar as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters". Article XX enumerates the following specific areas over which home rule cities have the power to legislate upon, provide, regulate, conduct and control:

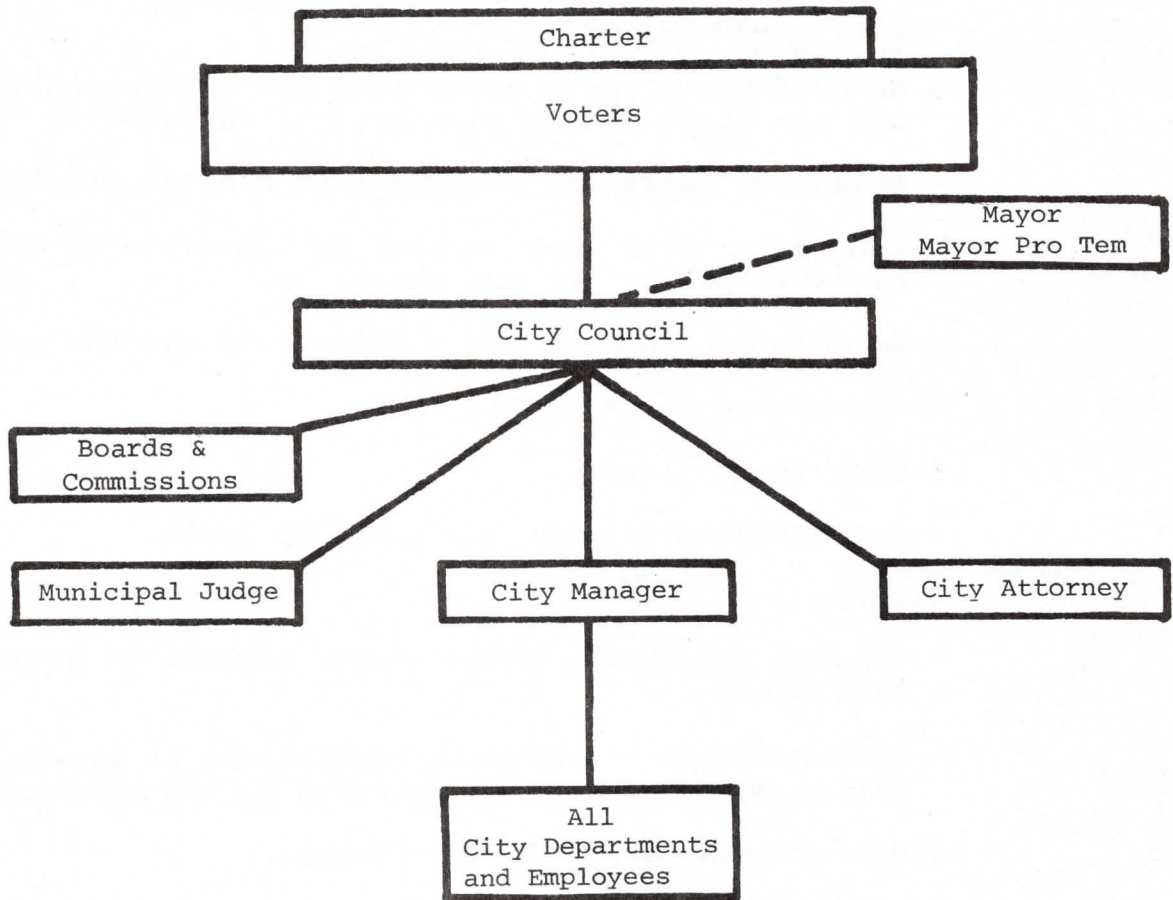
- . Creation and terms of municipal officers, agencies, and employment.
- . Establishment of police courts, and the definition and regulation of their jurisdiction, powers, and duties.
- . Creation of municipal courts, and the definition and regulations of their jurisdiction.
- . All matters pertaining to municipal elections.
- . Issuance, refunding and liquidation of all kinds of municipal obligations.
- . Consolidation and management of park or water districts.
- . Assessment of property for municipal taxation and the levy of special assessments.
- . Imposition, enforcement, and collection of fines and penalties.

5.3.2 Organization

Home rule cities may establish by charter an organization suitable to their individual needs. The structure of government (mayor-council, council-manager, commission, etc.), the number of council-persons, the method of election (ward or at-large) and their terms of office are described in the charter. Figure 5.3.2-A illustrates a typical home rule city government organization.

FIGURE 5.3.2-A

**TYPICAL HOME RULE CITY
GOVERNMENT ORGANIZATION**



Source: Local Government in Colorado, Governor's
Local Affairs Study Commission, 1966.

5.3.3 Constitutional and Statutory Limits on Powers

. General

Home rule municipalities have powers governed by charter provisions. However, all State statutes of a general nature still apply in home rule municipalities. An ordinance of a home rule city in clear opposition to State law is invalid. Home rule cities have powers relative to local concerns. There is a considerable gray area between local and statewide concerns which has been the subject of continual litigation.

. Revenue Alternatives (Tax Lead Time Study, Briscoe, Maphis, Murray & Lamont, 1974)

- General Sales Tax - total levy for cities and county and the State in any area may not exceed 7%.
- Selective Sales Tax - subject to charter provisions.
- Use Tax - total levy imposed by the State or any county or municipality may not exceed 7%.
- Ad Valorem Property Tax - subject to charter provisions.
- Occupation Tax - legal.
- User Fees - legal.
- Real Estate Transfer Tax - may be legal.

. Bonding

- General Obligation Bonds - debt subject to charter provisions.
- Revenue Bonds - same debt limitations as General Obligation Bonds if debt is incurred by the municipality.
- Special Assessment Bonds - legal.
- Industrial Development Bonds - legal subject to statutory provisions (29-3-101, 103 and 105, CRS 1973).

- . Waste Water and Water Systems - the statutes which apply to statutory cities and towns may also apply to home rule municipalities (see section 3.2.3.1). Home rule municipalities may also go beyond these provisions and may determine their powers in their home rule charters.

5.4 COUNTIES

5.4.1 Functions

General county government has a dual nature. In certain ways it acts as part of the State government performing functions on behalf of the State; but it also is a unit of local government.

The boards of county commissioners of respective counties are authorized and empowered to provide for the physical development of the unincorporated territory within the county. They have the power to establish planning commissions, formulate subdivision regulations, building codes and other land use regulations, as well as powers related to water and waste water.

5.4.2 Organization

Counties have their organization and structure provided specifically in the constitution.

The organization and structure of county government is also established by Article XIV of the Colorado Constitution. In general, the basic organizational pattern of county government is the same throughout the sixty-three counties of the State, except for the City and County of Denver. Because counties are primarily an administrative branch of local government, they have no court system of their own, nor do they possess any inherent legislative powers, other than those delegated by the General Assembly. Counties may adopt home rule charters pursuant to CRS 30-11-501. (Local Government in Colorado, 1969)

Commissioners represent districts, but are elected at large. The board of county commissioners constitutes the chief administrative and policy-making body for the conduct of county activities, except where other provision is expressly made. The board is composed of three members who are elected for four year terms, except home rule counties which have five members. Weld County was the only home rule county in the State by January, 1977. Figure 5.4.2-A illustrates county government organization.

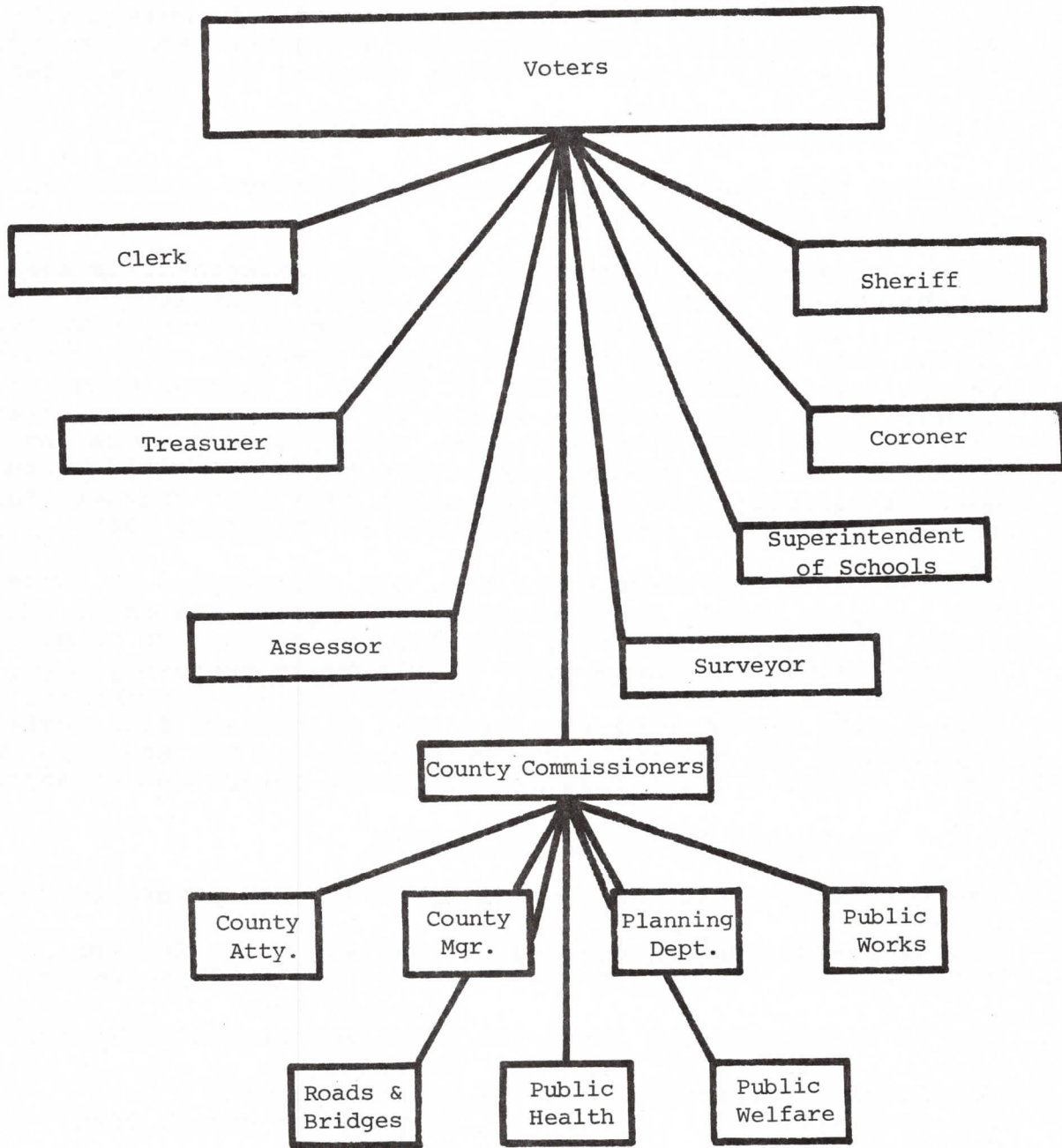
5.4.3 Statutory Authority and Powers

The following citations provide authority and powers to counties:

CRS 30-20-401 through 30-20-422	Sewer and Water Systems
CRS 30-20-501 through 30-20-530	County Public Improvement District Act
CRS 30-20-601 through 30-20-625	Local Improvement District - Counties
CRS 30-28-101 through 30-28-137	County Planning
CRS 30-28-106	Adoption of Master Plan
CRS 30-28-111	Zoning Plan
CRS 30-28-201 through 30-28-209	Building Codes

FIGURE 5.4.2-A

**COUNTY GOVERNMENT
ORGANIZATIONS
IN COLORADO**



Source: Local Government in Colorado, Governor's Local Affairs Study Commission, 1976.

CRS 30-11-101 through 30-11-121	County Powers, General Provisions
CRS 30-11-107	Powers of the Board of County Commissioners
CRS 30-20-101 through 30-20-115	Solid Waste Disposal Sites and CR Facilities
CRS 30-20-201 through 30-20-205	Disposal Districts
CRS 30-20-301 through 30-20-310	Public Projects

5.4.3.1 Waste Water and Water Systems

County commissioners, without an election, have the power to construct, operate and maintain water or sewerage facilities, and possess other powers such as authorizing revenue bonds, accepting grants, charging fees, buying land through purchase, lease, or right of eminent domain, and entering into joint operating agreements or contracts with consumers concerning water facilities or sewerage facilities. County commissioners also have the authority to require compulsory sewer connections if necessary for the protection of the public health and if the public sewer line passes within 400 feet of the boundary line of the property (30-20-416). The governing body of the county has the power and authority to establish public improvement districts (30-20-504). The petition to form such a district must be signed by the majority of those electors. This could be used to provide a financial base for a sewage collection system in those areas that are major nonpoint source contributors, such as septic tanks.

County governments are empowered under the Public Improvements Article (30-20) to provide services, manage public improvements, and to control waste water and solid wastes. No solid waste site or disposal facility can be operated in the unincorporated areas without a certificate of designation approved by the board of county commissioners (30-20-102). Factors to be considered and rules and regulations for engineering the design must be promulgated by the county. Certificates may be revoked by the board of county commissioners. The county is also authorized to collect service charges and to levy taxes for the operation of solid waste disposal sites (30-20-115). (Inventory of Existing Institutions and Regulations, Colorado West Area Council of Governments 208 Program, Nelson, Haley, Patterson and Quirk)

The definition of "Sewerage Facilities" under Title 30, Article 20 is broad in its definition. It includes the means used to control storm, flood, or surface drainage waters, thus granting authority to the county to establish procedures and construct and design facilities for nonpoint sources of pollutants caused by storm water runoff (30-20-401).

5.4.3.2 Revenue Measures

- . Revenue Alternatives

- General Sales Tax - total levy for cities, county and the State in any area may not exceed 7%.

- Use Tax - total levy for cities, county and the State in any area may not exceed 7%.
- Ad Valorem Property Tax - subject to extensive statutory provisions (30-11-107 and 30-20-514, CRS 1973).
- Occupation Tax - legal.
- User Fees - legal.

. Bonding

- General Obligation Bonds - total debt may not exceed 1-1/2% of valuation of assessed property in the county; subject to statutory restrictions on its use [30-26-301(1), CRS 1973].
- Revenue Bonds - may be issued without limitation for water and waste water facilities.
- Special Assessment Bonds - legal.
- Industrial Development Bonds - legal subject to statutory provisions (29-3-101, 103 and 105, CRS 1973).

5.5 COUNTY HEALTH DEPARTMENTS AND COUNTY BOARDS OF HEALTH

5.5.1 Functions

County Health Departments and Boards of Health function as monitoring and enforcement agencies; regulation powers are delegated directly from the State Department of Health.

The County Boards of Health shall assume all of the State Health Department's responsibilities and, in fact, are encouraged to do so. The powers they possess depends largely on the degree to which they desire and can handle the powers. No guidance from the State in dealing with agricultural point or nonpoint sources has occurred as yet.

5.5.2 Organization

The County Boards of Health are the policy making and the review and appeal agencies. The Boards consist of five members who are appointed by the county commissioners. They are autonomous in that the county commissioners cannot overturn their decisions; only the State Department of Health has that authority.

The County Health Departments are the staff; they execute the delegated responsibilities and prepare the cases and position for the Board of Health when review or an appeal is required.

5.5.3 Statutory Powers and Authority (Related to Water Quality)

Title 25, Article 8, CRS 1973, county laws and regulations including water, plumbing and subdivision laws provide that counties can:

- . Review plans for sewage treatment plants submitted to the State Department of Health. This power is delegated by the State to the counties.
- . Review and enforce permits related to individual sewage treatment plants (those under 2,000 gallons/day and which do not discharge into a creek). The State handles the others. This power is delegated from the State.
- . Monitor streams for water pollution and special problem situations. The State delegates this power to the counties.
- . Enforce violations of water pollution laws.
- . Inspect municipal water supply and semi-private distribution systems (a source serving over two dwelling units). This power is delegated by the State.
- . Inspect plumbing facilities, e.g., cross connection control especially as related to industrial water users. This power is found in county law and is generally delegated to city building departments.
- . Inspect septic systems and water wells for potential pollution. The State delegates this power to local health departments.
- . Perform health and sanitation inspections as required by State Solid Waste Act. This power is delegated to local health departments by the State.

6.0 SPECIAL DISTRICTS

6.1 INTRODUCTION

A variety of types of special districts exist in Colorado. They have been established to deal with specific purposes -- provide irrigation water, flood control, drainage, erosion control, water treatment, sanitation, etc.

Resource management, as a whole, has not been a concern of special districts. Water quality has not been a major component of special district programs.

In many areas, special districts are necessary to provide services that cannot be provided otherwise; however, a proliferation of districts and other local governmental bodies tend to deter coordination.

Special districts are quasi-municipal corporations which are organized for the purpose of performing one or more governmental functions or services. They are, like all other local governmental units, creatures of the State and derive their powers from state law. They may exercise only those powers expressly delegated to them by the General Assembly, or those which can be reasonably inferred from such laws.

It is important to distinguish between the two basic types of special districts -- special service districts and local improvement districts. Special service districts are independent legal entities which may be organized in either incorporated or unincorporated areas and are governed by a board of directors. The term "local improvement districts" usually applies to districts within municipal limits (although counties have the same powers), usually created and operated under the supervision of the municipal governing body. They are used to provide a special benefit type of service or facility (curbs, gutters, storm sewers, etc.) to a part of the community only. These districts are not examined here.

The Special District Control Act provides that any proposed special district shall be approved or disapproved by the Board of County Commissioners. A resolution by the Board of County Commissioners approving the service plan is a requisite to the district court calling an election on the question of the formation. A service plan shall consist of a financial survey, and a preliminary engineering survey showing how the proposed services are to be provided and financed. The plan shall include a map of the proposed district boundaries, an estimate of cost, and shall outline the details of any arrangement or proposed agreement with another municipality or special district for performance of any services between the proposed special district and another agency.

The Board of County Commissioners may disapprove the service plan upon satisfactory evidence that:

- . There is insufficient need.
- . Existing service is or will be available to the area through municipal annexation or special annexation within a reasonable time.
- . The proposed special district is incapable of providing economical and sufficient service to the area.
- . The area to be included does not have the financial ability to discharge its proposed indebtedness.
- . The facility and service standards are incompatible with surrounding entities.

After a district is formed, any material modification to the service plan may be made only by addition to and approval of the Board of County Commissioners. Any unreasonable departure from the service plan may be enjoined by the District Court forming the district. (Inventory of Existing Institutions and Regulations, Colorado West Area Council of Governments 208 Program, Nelson, Haley, Patterson and Quirk)

6.2 IRRIGATION DISTRICTS

6.2.1 Functions

Irrigation Districts function as planning, management and operations agencies regarding the provision of water supplies. They were formed to provide greater financing possibilities than ditch companies could provide. However, problems developed with these districts. The Irrigation Districts did not provide a broad enough tax base because of the fact that only irrigated lands carried the financial burden. The largest taxpayers were contributing nothing to the cost of the water, even though the irrigation development benefited the whole area. Water conservancy districts were formed to provide additional funding potential. These districts are similar in function to ditch companies. Sixteen such districts exist in Colorado.

6.2.2 Organization

The majority of landowners in the proposed district petition to the county for creation of the district. The County Commissioners, together with the State Engineer, decide on a date for a hearing. Prior to the hearing, the State Engineer files his report on the proposed irrigation system. If he considers the proposed system feasible, a hearing is granted. The County Commissioners will:

- . Determine whether statutory requirements have been compiled, with this determination reviewable by district court.

- . Fix boundaries. No lands will be included which would have easily attainable irrigation water from another source. Appeals will go to the district court. An election is then held and voted on by every owner of agricultural land in the district who pays property taxes on an area over one acre, or who owns 40 acres or more and lives outside the district. County commissioners will establish boundaries. Each person votes according to the amount of acreage he or she possesses. The board of directors consists of three landowners, although it may be enlarged to five if voted upon. The district can be dissolved by majority vote with district court approval.

6.2.3 Statutory Authority and Powers

CRS '73 37-41 provides authority for the following powers of Irrigation Districts:

- . Employ people needed.
- . Enter into contracts.
- . Acquire, purchase, operate and maintain constructed works.
- . Sue and be sued.
- . Purchase property and water rights.
- . Adopt plans.
- . Issue bonds.
- . Levy assessments at the same rate on all acreage, excepting land which is not capable of irrigation.
- . Ratify any contract involving in excess of \$20,000 by a majority of votes cast at an election.

6.3 WATER CONSERVANCY DISTRICTS

6.3.1 Functions

Water Conservancy Districts have planning, management and operational powers. These districts were organized because of deficiencies in Irrigation Districts. Water Conservancy Districts can make special assessments and levy an ad valorem tax on all property within the district, unlike Irrigation Districts which are single purpose organizations. Water Conservancy Districts were mainly set up in law to serve as arms for the Bureau of Reclamation and operate very closely with the Bureau's reclamation projects. They are becoming more interested in water management than they had previously, e.g., water quality problems. There are 36 Conservancy Districts in Colorado which are planning for projects or have entered into contracts with the U.S. for repayment on non-federal participation costs. They are generally of large size. Forty-four Districts exist in Colorado.

6.3.2 Organization

Water Conservancy Districts are organized differently according to their size. For a proposed district with assessed valuation of over \$20 million, a minimum of 1500 landowners of irrigated land with a minimum assessed valuation of \$2,000 per tract of irrigated land and a minimum of 500 landowners of nonirrigated land in incorporated areas with a minimum of \$1,000 assessed valuation per tract sign a petition. Cities over 25,000 in population must be approved by their chief executive officer and legislature in order to enter.

For proposed districts with assessed valuation under \$20 million, a minimum of 25% of the landowners of irrigated land must sign a petition. The petitions under both these alternatives are given to the county. The district court makes a decision on boundaries.

Districts formed prior to March 12, 1945, are required to have the board of directors selected by the court. In districts formed subsequent to this date, if a petition is signed by at least 15% of the qualified taxpaying electors of the district, an election may be held to elect the directors.

6.3.3 Statutory Authority and Powers

CRS '73 37-45 provides authority for the following powers of Water Conservancy Districts:

- . Appropriate, purchase and sell water rights, water works and property.
- . Construct, operate and control needed facilities inside and outside the district.
- . Utilize eminent domain except for transmountain diversions.
- . Contract with the U.S. Government.
- . Levy assessments.
- . Fix rates.
- . Hire employees.
- . Adopt plans.
- . Borrow money, incur indebtedness and issue bonds.
- . Levy taxes. The board determines the rates. There are four classes of taxation; any one or more methods may be used:

- Class A provides that:

For districts with assessments between \$20 and \$50 million, one mill/dollar before water is provided and two mills after water is provided are the maximum levies.

For districts with assessments over \$50 million, one-half mill/dollar before water is provided and one mill after water is provided are maximum levies.

Cities over 25,000 in population may set their own levies which may be less than the rates charged for other sections of the district.

- Class B provides that:

The rate charged to municipalities is charged as rate per acre/foot. Cities and counties petition the District if they desire to purchase water. Rates need not be equal for all classes of service.

- Class C provides that:

Special assessments to petitioning public corporations other than municipalities are based on a rate per acre/foot. Rates, determined by the Board, need not be equal for all classes of service.

- Class D provides that:

Special assessments may be made per acre/foot of water supplied. The Board may divide the District into units and levy rates that may not be equal.

- . An election is necessary if construction, acquisition or completion of a facility requires greater expenditure than the ordinary annual income and revenue permits.

6.4 WATER CONSERVATION DISTRICTS

6.4.1 Functions

Water Conservation Districts can function in planning, management and operational capacities. These districts are formed individually by the State Legislature. They have broad powers and financial alternatives.

6.4.2 Organization

Three water conservation districts have been organized in Colorado. They are (1) Colorado River Water Conservation District, (2) Southwestern Water Conservation District, and (3) Rio Grande Water Conservation District. The water conservation districts

are independent of the Colorado Water Conservation Board, but they do work with and make recommendations to the Board. Other activities include the promotion of water resource developments located within their respective boundaries; they participate in or take the lead in resolving water resource problems that are regional in nature or if more than a single water conservancy district is involved.

They are formed by legislation individually. There are not provisions for their establishment in State law. Their powers and functions are similar to Water Conservancy Districts. Funding is obtained through assessments on property, construction bond assessments, bonds and maintenance assessments.

6.4.3 Statutory Authority and Powers

CRS '73 37-46 provides the Colorado River Conservation District with the following powers:

- . Sue and be sued.
- . Acquire property.
- . Make surveys and conduct investigations to determine the best manner of utilizing stream flows within the district, the amount of such stream flow or other water supply and locate ditches, irrigation works, and reservoirs to store or utilize water for irrigation, mining, manufacturing, or other purposes, and to make filings upon water.
- . Make contracts.
- . Contract with any agencies, officers, bureaus, and departments of the State of Colorado or the United States.
- . Enter upon any privately owned land or other real property for the purpose of making surveys or obtaining other information.
- . Organize special assessment districts at different times for the purpose of establishing effective agencies to secure funds to construct reservoirs or other irrigation works.
- . Exercise the power of eminent domain.
- . File upon and hold for the use of the public sufficient water and natural streams to maintain a constant stream flow in the amount necessary to preserve fish, and to use such water in connection with retaining ponds for the propagation of fish for the benefit of the public.

. Levy taxes.

Board of Directors fixes the assessment not to exceed five-tenths of a mill for every dollar of valuation as a general levy to pay for plans, organization and salaries. An additional assessment can be charged not to exceed two-tenths of one mill for every dollar of valuation to be a general levy for paying costs of construction of any project designated to accomplish utilization of water by storage or otherwise for any beneficial use. A two-thirds vote of the membership of the Board is required to set this levy.

In lieu of general taxes discussed above, special assessments may be levied upon all real estate in the district, except cities, counties, state, school district and other government property to raise funds for organization, salaries, general plan for maintenance of stream flow and constant water. This assessment is made in proportion to the benefits to each piece of real estate accruing by reason of the adoption of a comprehensive development plan of the district.

Construction Fund Assessment--Assessments may be made from time to time as required (guided by the same rules for conservancy districts). Additional mill levy may be passed upon all property upon which benefits have been appraised, an assessment of their portion of benefits to pay the cost of the appraisal, preparation and execution of the plan, construction superintendance and administration during construction, plus 10% of the total to be added for contingencies but not exceeding the total of the principal of appraised benefits.

Maintenance Assessment--This may be levied to operate, maintain improvements on the basis of valuation for assessment of property or according to benefits (if survey is made as to benefits). This is not to exceed 5 mills on the dollar in any year.

. Issue Bonds

Bonds may be issued with 5 to 50 years duration. They are paid by assessments.

6.5 DRAINAGE DISTRICTS

6.5.1 Functions

Although Drainage Districts can function in the planning, management, and operations areas, their powers relate to drainage of land not suitable for use. They have limited financing alternatives compared to Conservancy (6.6), Water Conser-

vancy (6.3), or Conservation Districts (6.4). Fifteen such districts exist in Colorado.

6.5.2 Organization

Interested residents petition to the county with the most land lying in the district. An election is held with majority determining creation. Directors include three landowners. County Commissioners along with petitioners determine boundaries.

6.5.3 Statutory Authority and Powers

CRS '73 37-20 provides that Drainage Districts can:

- . Hire employees.
- . Acquire and condemn land.
- . Construct ditches and other facilities needed to drain or divert water.
- . Enter into contracts.
- . Adopt plans for drainage systems.
- . Issue bonds and special assessments based on benefits to landowners.
- . Levy taxes -- any expenditure over \$5,000 must be voted on by the membership.

6.6 CONSERVANCY DISTRICTS

6.6.1 Functions

Conservancy Districts have planning, maintenance and operational powers. These districts are organized basically for flood control projects. Their powers are not as broad as Water Conservancy Districts or Water Conservation Districts. Number of districts is unknown.

6.6.2 Organization

Two-hundred landowners or a majority of owners in the area proposed as a district petition to the district court which schedules an election. The district court has exclusive control over its activities. County governments have to approve the petition if it crosses county lines. District court approves boundaries with county verification of landowners.

6.6.3 Statutory Authority and Powers

CRS '73 37-2 provides Conservancy Districts with the following powers:

- . Clean and change water courses in or out of the district if district lands are affected.

- . Construct and maintain ditches, sewers and dams.
- . Protect public and private property.
- . Plot or subdivide land, open new roads or change existing ones.
- . Enter into contracts.
- . Prepare plans.
- . Hire employees.
- . Levy taxes, issue bonds and borrow money.

Preliminary fund--not to exceed 1 mill/dollar for preparation of plans and organization.

Construction fund--from time to time Board may levy assessments based on benefits accrued by project.

Conservancy bonds--may not exceed 90% of total amount of construction fund assessment.

Maintenance fund--may be levied to pay for maintenance and operation based on benefits accrued.

6.7 SOIL CONSERVATION DISTRICTS

6.7.1 Functions

Soil Conservation Districts have planning, operations, maintenance and regulation powers, plus rather broad powers relating to soil and water resources. The purpose of their establishment is to return lands to productivity which have been lost through wind and water erosion and depletion of subsurface water resources. There are 83 such districts in Colorado. They receive a small portion of their budget from the Board. (Approximately \$89,000 for the 83 districts). They also get grants through the Federal Soil Conservation Service (independently of the Board).*

6.7.2 Organization

At least 25% of the landowners in the proposed district petition the Board. The Board must approve the petition. An election is held. The State Soil Conservation Board must approve the district boundaries as selected by the district. The governing body of the District is formed by election of three members and appointment of two members by the State Board.

* Interview with Al Campbell, Colorado Soil Conservation Board, March 6, 1977.

In the event that lands in a district cease to be used for agricultural use and are devoted exclusively to commercial or industrial uses related to urban development or are subdivided for residential purposes or are part of an area within an incorporated municipality, the lands may withdraw from the district by the landowner or the district may withdraw the lands.

6.7.3 Statutory Authority and Powers

CRS '73 35-70.

- . Conduct surveys and research related to soil conservation.
- . Erect structures and maintain facilities to prevent soil erosion.
- . Enter into agreements and furnish financial aid to any agency or owner of land in the district in carrying on of erosion control, flood control and water conservation.
- . Take over and administer any soil conservation, erosion control project located in its boundaries undertaken by the U.S. Government and manage those projects.
- . Prepare a plan for the care and operation of the land in the district.
- . Sponsor, plan, construct, maintain and operate flood prevention and watershed improvement projects for the development, conservation, control and utilization of water resources.
- . Make assessments. Assessments shall be by benefits accrued. Approval by all members of the District is required. Additionally, the District may levy a property tax. This tax is allowable for installation, maintenance and operation of flood prevention and watershed improvement measures.

6.8 URBAN DRAINAGE AND FLOOD CONTROL DISTRICTS

6.8.1 Functions

Urban Drainage and Flood Control Districts have planning, construction, operations and regulation powers. These districts are established individually by the legislature. They have broad powers related to water, primarily related to flood control and drainage.

6.8.2 Organization

The 1969 Colorado General Assembly enacted the Urban Drainage and Flood Control Act. The Act, relating to storm waters, flood control, and drainage, created the Urban Drainage and Flood Control District.

Responsibilities of the District include the development of comprehensive regional plans and programs for drainage and flood control and the construction of the needed facilities.

The District boundary encompasses and is located in the City and County of Denver and in the counties of Adams, Arapahoe, Boulder, Douglas, and Jefferson. Approximately 872,320 acres are contained within the District.

All powers, rights, privileges, and duties of the District are vested in a 15-man Board of Directors representing the City and County of Denver and the other five counties included in the District.

To implement the District's programs, the Board of Directors is authorized to levy and collect taxes against all taxable property in the District, to borrow money, to issue District securities and to accept contributions or loans from the Federal Government for the purpose of planning and financing District projects.

6.8.3 Statutory Authority and Powers

CRS '73 32-11 provides that Urban Drainage and Flood Control Districts can:

- . Enter into contracts.
- . Acquire and dispose of property.
- . Sue and be sued.
- . Borrow money and issue bonds.
- . Hire needed employees.
- . Adopt regulations such as flood plain zoning.
- . Levy taxes against all property in the District: 1/2 mill maximum for maintenance and operation; 1 mill maximum for capital improvements; 1 mill maximum to accumulate funds as security for payment of assessment bonds; and 2-1/2 mills maximum nondebt levy annually.

6.9 WATER AND SANITATION DISTRICTS

6.9.1 Functions

Water and Sanitation Districts can function in operations and management capacities. These districts provide water and sewer service primarily to urban areas. Approximately 158 such districts exist in Colorado. The size of districts varies.

6.9.2 Organization

These Districts are formed by petition of taxpayers (10% of total or 100 taxpayers, whichever is smaller). An election is then held and they are established by District Courts. Five directors are selected for 6-year terms. The District Court approves boundaries.

When a District lies entirely within a town and when all of its indebtedness has fully been paid or satisfied, with the consent of the town governing body, all of the property of the District may be conveyed to the town upon the condition that the city or town will operate and maintain the property.

6.9.3 Statutory Authority and Powers

CRS '73 32-4 provides authority for the following powers of the Water and Sanitation Districts:

- . Enter into contracts.
- . Borrow money, incur indebtedness and issue bonds. Board must call for election if indebtedness exceeds \$5,000 or 1% of valuation for assessment, whichever is larger.
- . Acquire and dispose of water rights, personal property, water and sewer works and plants.
- . Manage, control, operate and maintain needed works.
- . Fix water and sewer rates; levy taxes.
- . Hire employees.
- . Fix minimum charges and rates for indebtedness for service and facilities where: valuation for assessments for District is less than three times the amount of outstanding general obligation indebtedness; district will have a mill levy against all taxable property if not more than 10 mills.
- . Rates, tolls and charges for services will not be used to pay operations and maintenance or capital improvements costs.

- . No rate, toll or charge for water and sewer service shall exceed total amount of principal and interest on indebtedness (outstanding) to mature during the annual period within which such toll is payable, less the amount produced or to be produced during such period by the mill levy then being levied, divided by the total number of residential lots or lot equivalents.

6.10 GROUNDWATER MANAGEMENT DISTRICTS

6.10.1 Functions

Groundwater Management Districts have planning powers, power to manage groundwater and were formed to promote conservation and development of groundwater in "designated groundwater basins." They work very closely with the Groundwater Commission of the Department of Natural Resources. Most of the actual powers reside with the Commission. The Districts have limited powers and financial alternatives.

6.10.2 Organization

A proposal is submitted to the Groundwater Commission which studies it and adjusts the boundaries if necessary. A petition is then filed which must be signed by at least 15 percent of the taxpayers in the area. The Commission sets a hearing date where it examines and rules on the petition. The District Court may review the decision. The Commission calls for an election (all taxpayers may vote). Directors must give bond of \$5,000 that they will perform the duties faithfully. There may be from 5 to 15 directors.

6.10.3 Statutory Authority and Powers

CRS '73 37-90.

- . Consult with the Groundwater Commission on groundwater matters.
- . Regulate the use, control and conservation of these waters by any of the following means:

Provide for adequate spacing between wells.

Acquire land for dams, lakes, etc., and construct dams and drain lakes needed to recharge groundwater resources.

Develop comprehensive plans for the most efficient use of the water.

Require owners to cap wells.

Promulgate reasonable rules and regulations for purposes of conserving, protecting and recharging groundwater.

Prohibit use of groundwater outside the boundaries of the District.

- . Collect taxes to the amount of not more than 1/2 mill on all taxable property. A special assessment may be made on water wells.
- . Enter into contracts.
- . Issue bonds with interest rates not exceeding 6 percent
- . Make needed expenditures. If an expenditure amounts to more than the "ordinary annual income and revenue of the District," the question must be put to a vote of the electors.

6.11 METROPOLITAN SEWAGE DISPOSAL DISTRICTS

6.11.1 Functions

The powers of Metropolitan Sewage Disposal Districts lie in planning, operation and management of sewage treatment power works. These Districts are organized for the purpose of acquiring, constructing, owning and operating the sewage disposal system to intercept, receive transport, treat and dispose of outfalls of sewer systems of municipalities. A District may be composed of the territory included within the corporate boundaries of any two or more municipalities; it need not be contiguous and need not be located in the same county.

The powers relate to transmission and treatment operations and do not include constructing or operating collector systems. It possesses limited taxing authority. (Institutional Memorandum, IM-3, The Research Group, Inc., to Denver Regional Council of Governments, June 29, 1976.)

6.11.2 Organization

The participating cities enact an ordinance to form the District. The State certifies that the process used to form the District satisfies requirements set forth in the ordinance. The Board of Directors is appointed from participating municipalities.

Municipalities may dispose sewage facilities to the District, make machinery and employees available, expand funds, budget, tax, create service charges, and prescribe rules and regulations that comply with District rules.

6.11.3 Statutory Authority and Powers

CRS '73 32-4 provides authority for the following Metropolitan Sewage Disposal Districts powers:

- . Enter into contracts and agreements.
- . Borrow money and issue securities.
- . Purchase, trade, and acquire and dispose of real and personal property and interests including water and water rights.
- . Refund any bonded indebtedness of the District without an election.
- . Levy taxes. During the first five years of the District's existence, the District may levy general ad valorem taxes on all taxable property within the District, but the total tax levy for the five-year period may not exceed an aggregate total of three-fourths of one mill. When the District, within the period of five years, has levied taxes to the total of three-fourths of one mill, or when the District has been organized for a full five-year period, whichever occurs first, the District will have no further power to levy general ad valorem taxes.
- . Acquire, hold, operate, maintain, equip, improve and dispose of a sewage disposal system.
- . Pay or otherwise defray the cost of any project; pay or otherwise defray and contract so to pay or defray for any term not exceeding fifty years, without an election, the principal of, any interest on, and any other charges appertaining to any securities or other obligations of any municipality or person incurred in connection with any such property so acquired by the District.
- . Fix and from time to time increase or decrease rates and charges to municipalities within the District for the services provided by the District.
- . Enforce the collection of rates and charges made by the District to any municipality which fails to pay any such rates and charges.
- . Enter, without an election, into joint operating or service contracts and agreements, acquisition, improvement or disposal contracts or other arrangements, for any term not exceeding fifty years, with any municipality or person concerning sewage facilities.
- . Enter into and perform, without an election, contracts and agreements with any municipality or person for or concerning the planning, construction, lease or other acquisition, operation, maintenance, improvements, equipment disposal and the financing of any project.
- . Carry on technical and other investigations of all kinds.

- . Prescribe and enforce reasonable rules and regulations for the availability of service from, the connection with, the use of, and the disconnection from a sewage disposal system, and other facilities.
- . Make and keep records.

6.12 METROPOLITAN DISTRICTS

6.12.1 Functions

Metropolitan Districts have the power to function in construction, operation and maintenance of water and sewage treatment works. Metropolitan Districts are designed to provide two or more services including wastewater services. They may not be organized to perform the same service that is performed by an existing district in the same area. Where a Metropolitan District is organized as such, it has all the powers of a water, sanitation and fire protection district.

6.12.2 Organization

10% or 100 taxpayers, whichever number is smaller, must sign a petition. The District Court, which has jurisdiction over the District, sets up an election if conditions are met. Only taxpayers may vote. A Board of Directors is also selected.

6.12.3 Statutory Authority and Powers

CRS '73 32-3 provides Metropolitan Districts with the following powers:

- . Enter into contracts and agreements.
- . Borrow money and incur indebtedness.
- . Acquire, dispose of, and encumber real and personal property.
- . Refund any bonded indebtedness of the District without an election.
- . Have and exercise the power of eminent domain.
- . Fix and from time to time decrease or increase the rates, tolls, or charges for services or facilities furnished by the District.
- . Pass and enforce regulations promulgated by the Board to effectuate the purposes for which the District was organized.
- . Construct and maintain works and establish and maintain facilities.

6.13 RIVER BASIN AUTHORITY

6.13.1 Functions

River Basin Authorities can function in the areas of planning, management and operation of works related to water diversions. These authorities were created to augment the work of the Division of Water Resources. Their functions would relate to distribution of water and discouragement of waste. To this date none have been created.

6.13.2 Organization

Provision is made for 13 River Basin Authorities (as opposed to 7 districts of the State Engineer). Designated groundwater basins are excluded, although each basin formed after July 1, 1969 remains liable for bonded indebtedness incurred prior to the formation. These authorities are created by action of the County Commissioner of member counties. A meeting is held of all the County Commissioners of all counties included in whole or in part within the authority to determine whether the district should be formed and to select a Board of Directors. No part of the City and County of Denver can be part of any authority nor can "any part of an area, on or after July 1, 1969, served with an urban or industrial water supply by a municipal or quasi-municipal corporation be included in a basin authority without its consent; nor shall any water conservation district on July 1, 1969, be so included, without its consent (37-39-108)." Member counties actually levy the tax.

6.13.3 Statutory Authority and Powers

CRS '73 37-93 provides that River Basin Authorities can:

- . Construct and operate wells, dams, reservoirs, and irrigation works.
- . Condemn land.
- . Raise revenue by a tax upon the taxable real property right of the right to use water. The tax is to be levied according to the benefits received by the water users.
- . Make levies. Uniform levy of no more than 3 cents per acre foot of water delivered in the basin may be levied for general administration and operation. Additionally, no more than 10 cents per acre foot may be levied for planning, operation and maintenance costs.
- . Issue bonds which must be passed at a special election submitted to the electors of the District.

- . Satisfy vested rights within authority with water from sources other than the natural river flow and appropriate unappropriated waters in accordance with the law.
- . Sue and be sued.
- . Establish standards for proper utilization of water. These are not to be inconsistent with any standards of the State Engineer. Three divisions of water supply relating to agricultural, municipal, and industrial water use are defined; these outline efficiency of use and are meant to discourage waste.
- . Enter into contracts with other authorities, special districts or other entities.
- . Recommend to the State Engineer on conditions needed to be imposed on the granting of a request for a change in point of diversion.
- . Hire employees.

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