

CERTIFICATION OF ENROLLMENT

SENATE JOINT MEMORIAL 8014

54th Legislature
1995 Regular Session

Passed by the Senate April 19, 1995
YEAS 42 NAYS 0

President of the Senate

Passed by the House April 6, 1995
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE JOINT MEMORIAL 8014** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE JOINT MEMORIAL 8014

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senators Fraser, Morton, Winsley and Rasmussen

Read first time 02/03/95. Referred to Committee on Energy,
Telecommunications & Utilities.

1 TO THE HONORABLE BILL CLINTON, PRESIDENT OF THE UNITED STATES, AND
2 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
3 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
4 UNITED STATES, IN CONGRESS ASSEMBLED:

5 We, your Memorialists, the Senate and House of Representatives of
6 the State of Washington, in legislative session assembled, respectfully
7 represent and petition as follows:

8 WHEREAS, Congress traditionally has deferred to state regulation of
9 water; and

10 WHEREAS, Congress enacted the McCarran Amendment, 43 U.S.C. Sec.
11 666, to allow the joinder of the United States in state general stream
12 adjudications; and

13 WHEREAS, Congress intended the United States to be subject to the
14 same procedures as all other water users joined in state stream
15 adjudications; and

16 WHEREAS, Many of the western states' general stream adjudication
17 procedures require claimants to pay a fee to offset a part of the
18 state's expenses arising from state general stream adjudications; and

19 WHEREAS, Many of the western states are conducting general stream
20 adjudications in state courts for the purpose of quantifying all water
21 right claims in accordance with the McCarran Amendment; and

1 WHEREAS, The United States is a large claimant of water rights in
2 these general stream adjudications; and

3 WHEREAS, The United States often provides legal representation of
4 Indian tribes claiming reserved rights in state general stream
5 adjudications, and these rights stem from agreements with the United
6 States; and

7 WHEREAS, The adjudication of federal and Indian water right claims
8 takes a great deal of the state courts' and state water rights
9 agencies' time, effort, and resources; and

10 WHEREAS, In some instances, federal agencies have promised
11 financial support to states in these adjudications which the western
12 states have included in their budgets; and

13 WHEREAS, The United States has in the past paid adjudication filing
14 fees in some western states; and

15 WHEREAS, The United States Supreme Court interpreted the McCarran
16 Amendment as not waiving the United States' sovereign immunity to
17 payment of state adjudication fees; and

18 WHEREAS, This suit by the federal government is contrary to
19 promises and assertions made by various federal officials to provide
20 financial assistance to states for the conduct of the adjudication; and

21 WHEREAS, Equity and fairness dictate that the United States share
22 the financial burden borne by other claimants and the state in funding
23 these adjudications;

24 NOW, THEREFORE, Your Memorialists respectfully pray that Congress
25 require federal agencies to pay state adjudication fees to the same
26 extent as required of other claimants; and

27 BE IT RESOLVED, That Congress require the Bureau of Indian Affairs
28 to pay state adjudication fees for Indian reserved claims to the same
29 extent as required by other claimants; and

30 BE IT FURTHER RESOLVED, That Your Memorialists urge Congress to
31 appropriate moneys for payments to states that have incurred costs as
32 a result of federal or Indian reserved claims or objections to private
33 claims in a state general stream adjudication for services that the
34 respective states have provided to the federal government in
35 quantifying its water rights.

36 BE IT RESOLVED, That copies of this Memorial be immediately
37 transmitted to the Honorable Bill Clinton, President of the United
38 States, the President of the United States Senate, the Speaker of the

1 House of Representatives, and each member of Congress from the State of
2 Washington.

--- END ---