

HOW CALIFORNIA HANDLED TWO WEATHER MODIFICATION PERMIT APPLICATIONS FROM NEVADA, AN ADJOINING STATE

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In 1978 the California Legislature passed a new law regulating weather resources management (commonly known as cloud seeding). The law became effective in 1979 for the 1979-80 water year; it established a detailed system of licenses for individuals, and of permits, notices, record keeping, and reports for each project. The 1978 law superseded a law which basically required only a notice of intention before an annual license was granted to conduct a weather modification project.

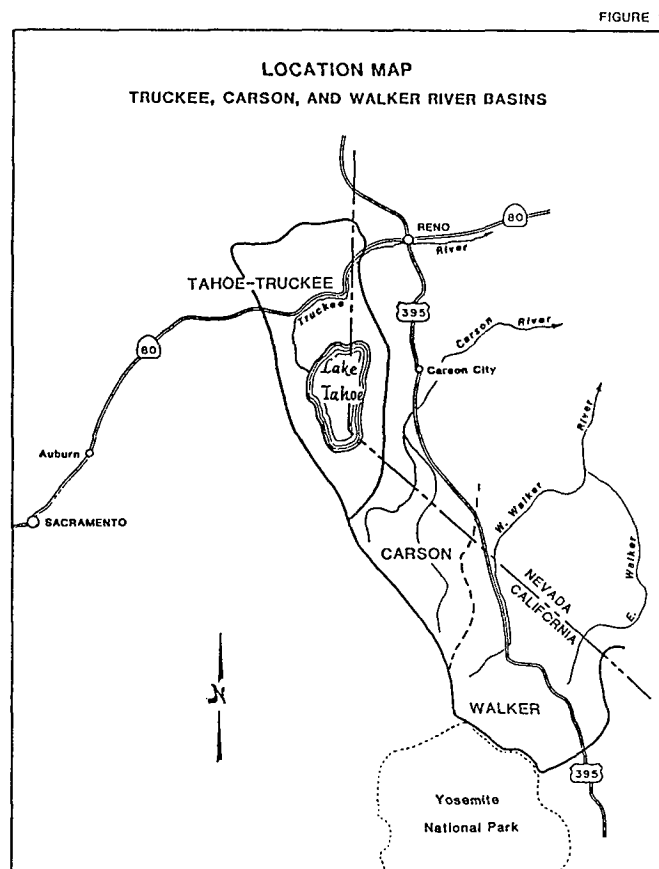
By 1984, the detailed provisions seemed like unnecessary regulation and the State Legislature repealed many of them, including the need for licenses and permits for weather modification. However, project sponsors still must notify people in the project area and file annual or biennial reports.

During the 1980-84 period when California was actively regulating weather modification activities with a permit program, a total of 14 permits were issued. Two of these went to an adjoining state -- Nevada.

California law required (and still requires) compliance with the California Environmental Quality Act (CEQA). For example, local public agencies had to pre-prepare an Environmental Impact Report (EIR) on proposed weather modification projects. The regular EIR process was not applicable, however, to agencies of another state.

During this period of regulation, the Desert Research Institute of Nevada (DRI), on behalf of the water users of that state, applied for two permits. One was for the Lake Tahoe-Truckee River Basin; the other was for the Carson and Walker Rivers. The location of these two projects is shown on Figure 1. In both of these areas, most of the water supply originates in California while most of the water need and use is in Nevada. Average annual natural runoff of the Truckee River, including Lake Tahoe, at the stream gaging station at Farad, near the state-line, is about 580,000 acre-feet (AF). The Carson River basin runoff from its two forks is about 360,000 AF. The Walker River furnishes about 370,000 AF of natural flow at the two primary gaging stations. The sum of natural flows in all three river systems at their respective major gages is about 1,310,000 AF per year. Estimated depletion due to water use in California is rather small, around 120,000 AF. Over 90% of the natural runoff flows into Nevada.

The procedure for handling permit applications is illustrated by Figure 2. Normally, an EIR was required under CEQA before a permit could be granted. However, the weather modification law had one important exception--a "grandfather" provision which specified that if an existing project had been operated continuously for a

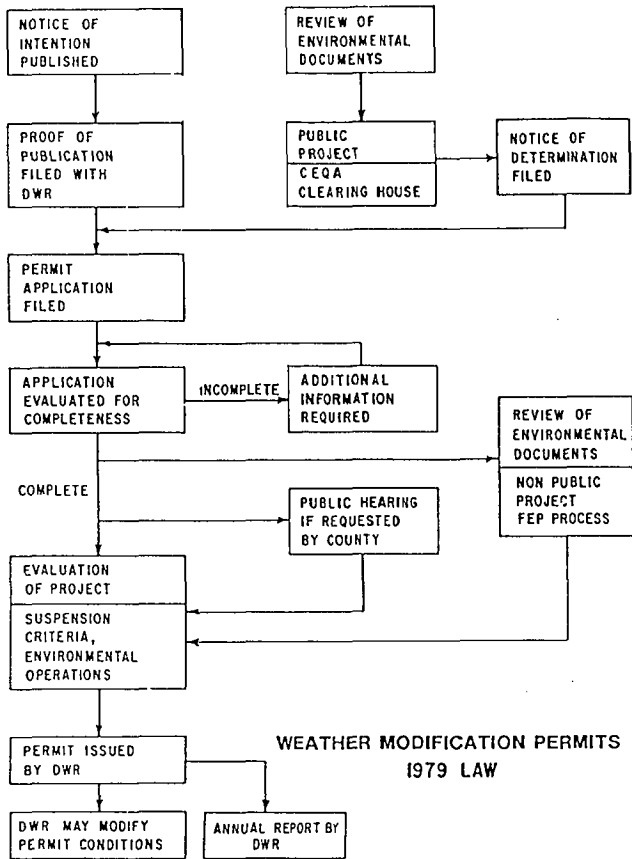


period of ten years, a permit would be granted automatically. Since this provision did not allow the Department of Water Resources discretion on whether to grant the permit or not, CEQA did not apply.

The first permit application, that for the Tahoe-Truckee basin, was filed in October 1979. The stated purpose was to investigate the feasibility of weather modification and to attempt to produce increases in the wintertime snowpack. The Desert Research Institute was able to show that some kind of operations towards their expressed purpose in essentially the same geographic area had taken place each year from 1969-70 through 1978-79. Hence they qualified for a 10-year "grandfather" permit which was subsequently issued in late November of 1979.

During 1979 and early 1980, the Department of Water Resources staff had been working on obtaining certification from the parent Resources Agency for use of a functional equivalent process in lieu of an environmental impact report in

FIGURE 2



Walker river basins. DRI did a good job of explaining their proposed project and the environmental effects in the application. The material was sent to the interdisciplinary review committee and other agencies with potential jurisdiction. Subsequently, a committee meeting was held near the end of January; the application was discussed, and approval was recommended, subject to a better description of evaluation methodology. DRI quickly furnished a better explanation of evaluation methods and the permit was granted on February 2. There was no opposition; in fact, we had a resolution of support from Mono County, one of the mountain counties in the Walker Basin. Joe Warburton and others did a good job of meeting with California mountain county people before the application was filed to answer their questions. This advance public information did much, in my opinion, to allay fears about the proposed Carson-Walker Project and forestall potential opposition and protests which could have delayed the project.

regulation of weather resources management by non-public sponsors. This authority was finally obtained, after an initial rejection, in March 1980. The functional equivalent process requires the same environmental information as a report, but is much speedier. For weather resources management permits, the application is reviewed by a seven-person interdisciplinary panel who recommends action to be taken. Their work includes consideration of review comments received from other agencies who are sent a copy of the application immediately after it is filed. The seven disciplines were: (1) weather resources management, (2) meteorology, (3) flood management engineering, (4) biology, (5) economics, (6) land and water use analysis, and (7) law.

Under CEQA, public agencies sponsoring a project have to do their own EIR on that project, following the EIR process. The FEP avenue was set up originally for the purpose of handling private applications. However, the definition of public agency in the weather resources management regulations read as follows: "any state agency, board or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision of the State of California". Note that an adjoining state or state agency is not included in this definition; hence a Nevada application was a non-public application under our regulations and the FEP procedure was applicable.

In early January 1981, a second weather resources management project application was received from DRI. This was for the Carson-