

# *Federal Indian Water*

How does the  
United States Do it?

- NOT VERY WELL -



# The Federal Government

- Executive
  - Office of Management and Budget
  - Department of Justice
  - Department of the Interior
  - Department of Defense (Corps)
- Congress
  - House
  - Senate
- Judiciary – McCarren Amendment



# Executive Branch

- Office of Management and Budget
- Department of Justice
- Department of the Interior
  - BIA
  - Reclamation
  - FWS
  - Solicitor
- DOD - COE



# Federal Indian Water Policy

- Trusteeship – Protection of the Indian assets
  - All of the Federal Government is responsible for trusteeship
  - Main trustee is the Secretary of the Interior
  - The main activity for trust protection is litigation
- Winters Doctrine
  - Supreme Court – Indians have a right to water for the purposes of their reservation



# Federal Indian Water Policy

- 1982 - President Reagan first stated the Federal Intent to negotiate Indian water rights claims
- Every Administration since has reiterated its desire to negotiate Indian water rights claims



# Federal Indian Water Policy

- Criteria and Procedures – 1990
- Agreement among the DOI; DOJ; OMB
- Basic tenets
  - All parties to a claim should be parties to a water rights negotiation
  - Parties bear the cost of the benefits of settlement
  - Federal contribution to settlement should not exceed the value of the United States



# Federal Indian Water Policy

- Department of the Interior
  - Working Group on Indian Water Settlements
  - Indian Water Rights Office
  - Negotiation process
    - Assessment
    - Negotiation
    - Settlement
    - Implementation



# *Senate*

- Energy and Natural Resources Committee
- Indian Affairs Committee
- Appropriations
  - Energy and Water Development
  - Interior, Environment, and Related Agencies



# *House of Representatives*

## Resources Committee

- Water and Power Subcommittee
- Indian Affairs
- Appropriations (Tom Cole)
  - Energy and Water Development
  - Interior, Environment, and Related Agencies



# *The Water Development Process*

- Determination of a water resource problem
- Technical definition of the problem
- Study of possible solutions
- Identification of probable solution
- Construction of preferred solution
- Operation, Maintenance, and Replacement



# *Legislative Process*

Function	BIA/Snyder Act	Reclamation
Investigation and Planning	Congressional Appropriations	Congressional Appropriations
Feasibility Authority	Congressional Appropriations	Congressional Authorization
Construction/ Development	Congressional Appropriations	Congressional Authorization
Operation and Maintenance	Water User or Statutory Mandate	Water Users