

**EXECUTIVE DIRECTOR'S MONTHLY REPORT
TO THE
COLORADO RIVER BOARD OF CALIFORNIA**

September 9, 2003

ADMINISTRATION

CRB Budget for FY 2003-04

At the Board's meeting last month we discussed the status of the State's budget and in particular the Board's current budget dilemma for FY 2003-04. As you will recall, the Board's budget for FY 2003-04 had its General Fund contribution reduced from \$192,000 to zero. Based upon the existing budget situation, the staff has prepared a budget analysis which has been sent to the Board members and alternates and will be discussed at the Board meeting.

AGENCY MANAGERS MEETING

The Agency Managers have not met since the last Board meeting.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

As of September 1, 2003, storage in the major Upper Basin reservoirs decreased by 782,000 acre-feet and storage in the Lower Basin reservoirs increased by 139,000 acre-feet during August. Total System active storage as of September 4th was 34.401 million acre-feet (maf) or 57 percent of capacity, which is 3.829 maf less than one year ago.

August releases from Hoover, Davis, and Parker Dams averaged 12,100, 11,760 and 9,870 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of September 2003 are 9,800, 11,400, and 9,600 cfs, respectively. The September releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir.

The final September 2, 2003, observed April through July 2003 unregulated inflow into Lake Powell was 3.918 maf, which is 49 percent of the 30-year average for the period 1961-1990. The final September 2, 2003, projected unregulated inflow into Lake Powell for the 2003-04 water year was 6.179 maf, or 51 percent of the 30-year average.

Without an executed Quantification Settlement Agreement, the Lower Division States' consumptive use of Colorado River water for calendar year 2003 is limited to 7.5 maf, i.e. Arizona

2.8 maf, California 4.4 maf, and Nevada 0.3 maf. For calendar year 2003, it is estimated the Central Arizona Project (CAP) will divert 1.611 maf, of which 0.273 maf is to be credited to the Arizona Water Bank. The Metropolitan Water District of Southern California (MWD) will be required to reduce its consumptive use to 0.581 maf or 47 percent of its actual use in 2002.

As of September 4th, and taking into account both measured and unmeasured return flows, the Lower Division States' consumptive use of Colorado River water for calendar year 2003, as forecasted by the Board's staff, totals 7.636 maf before deduction of 0.264 maf for unmeasured return flow credits and is distributed as follows: Arizona, 2.909 maf; California, 4.416 maf; and Nevada, 0.311 maf.

The preliminary end-of-year estimate for 2003 California agricultural consumptive use of Colorado River water under the first three priorities and the sixth priority of the 1931 *California Seven Party Agreement* is 3.777 maf. This estimate is based on the collective use through July 2003 by the Palo Verde Irrigation District, the Yuma Project-Reservation Division (YPRD), the Imperial Irrigation District, and the Coachella Valley Water District. Figure 1, found at the end of this report, depicts the historic projected end-of-year agricultural use for the year.

Colorado River Operations

2004 Annual Operating Plan

The Colorado River Management Work Group met on August 6, 2003, to continue development of the 2004 Annual Operating Plan for the Colorado River System Reservoirs (2004 AOP). Based upon comments received at that meeting, the draft 2004 AOP has been revised. However, for the most part, these were editorial comments and the Secretarial determinations remain unchanged from the previous drafts.

The proposed 2004 AOP contains the following determinations:

- Upper Basin Delivery: The minimum objective release criterion will control the annual release from Glen Canyon Dam during water year 2004 in accordance with Article II(2) of the Operating Criteria unless spill avoidance and/or the storage equalization criteria in Article II(3) is controlling.
- Lower Basin Delivery: Under the most probable inflow scenario, downstream deliveries are expected to control the releases from Hoover Dam.
 - The Normal condition is the criterion governing the operation of Lake Mead for calendar year 2004 in accordance with Article III(3)(a) of the Operating Criteria and Article II(B)(1) of the Decree.
 - Suspension of surplus determinations under Sections 2(B)(1) and 2(B)(2) of the Interim Surplus Guidelines will remain in effect until such time as California completes all

required actions and complies with reductions in water use reflected in Section 5(C) of the Interim Surplus Guidelines.

- In the event that California meets these requirements prior to, or during calendar year 2004, consistent with Section 5(B) of the Interim Surplus Guidelines, the interim surplus determinations under Sections 2(B)(1) and 2(B)(2) will be reinstated, following appropriate consultations. In such an event and in accordance with Section 7 of the Interim Surplus Guidelines, the Partial Domestic Surplus determination will govern the releases for use of water in the States of Arizona, Nevada and California during calendar year 2004.

- Water Apportioned but Unused: Reclamation does not anticipate any available unused apportionment for calendar year 2004 at this time. However, if any unused apportionment is available, the Secretary shall allocate any available unused apportionments for calendar year 2004 in accordance with Article II(B)(6) of the Decree and Section 1(B) of the Interim Surplus Guidelines.
- 1944 U.S.-Mexico Water Treaty Delivery: A volume of 1.5 maf of water will be allowed to be scheduled for delivery to Mexico during calendar year 2004 in accordance with Article 15 of the 1944 U.S.-Mexico Water Treaty and Minute No. 242 of the International Boundary and Water Commission.

The final consultation meeting on the 2004 AOP will be held on September 11, 2003. Following that meeting the 2004 AOP will be finalized by Reclamation and sent to the Secretary of the Department of the Interior for approval and when approved, distributed to the governors' of the seven Colorado River Basin states.

43 CFR Part 417 Process

On August 29th, Reclamation issued its final determination of the amount of Colorado River water (2,834,100 AF) approved for beneficial use by the Imperial Irrigation District for calendar year 2003. This determination represents an increase of 11,400 acre-feet from Reclamations initial determination on July 3, 2003. In accordance with the regulations, this determination will be final in 30 days, unless the IID appeals this decision to the Secretary of the Interior.

Recovery of Interstate Storage Credits

Included in the Board folder for your information, is a letter from MWD to the Central Arizona Water Conservation District (CAWCD), in which it submitted a tentative schedule for recovering water stored in the Arizona Groundwater Bank. MWD has asked the CAWCD to schedule 80,000 acre-feet (Interstate Underground Storage Credits) by exchange during calendar year.

California's Colorado River Water Use Plan

Status of the QSA Discussions and Activities

The parties to the Quantification Settlement Agreement (QSA) and the state of California have essentially agreed upon the final QSA and three bills are being considered by the California legislature that will assist in its implementation. The QSA will provide California a transition period to implement water transfers and supply programs that will reduce California's dependence upon the Colorado River and allow it to live within its 4.4 million acre-foot basic annual apportionment when conditions on the River dictate.

The QSA commits the state to a restoration path for the environmentally sensitive Salton Sea as well as provides full mitigation for these water supply programs. With execution of the QSA, which must occur by October 12, 2003, it assures California up to 75 years of stability in its Colorado River water supplies and provides for a lasting peace among Colorado River users, not only in California, but also among the seven states that share the Colorado River.

The following is a summary of the three bills that are being considered by the legislature.

Senate Bill 277 (Kuehl and Machado)

Senate Bill 277 facilitates the State of California's participation in the enactment of the Salton Sea Restoration Act and establishes the Salton Sea Restoration Fund to be administered by the Department of Fish and Game (CDFG). The proposed legislation authorizes the CDFG to expend monies from this fund for activities related to restoration of the Salton Sea, ecosystem restoration along the Lower Colorado River in the United States, and in the Colorado River Delta in Mexico.

Restoration of the Salton Sea is to be based upon selection of the "preferred alternative" resulting from the restoration study and alternative selection process described in Fish and Game Code Section 2081.7. The California Department of Water Resources (CDWR) is authorized to purchase and sell water made available pursuant to Section 1745.02 of the Water Code to achieve the goals of this proposed legislation.

Additionally, the proposed legislation requires an analysis and quantification of potential economic impacts to the Imperial Valley related to the land fallowing programs and the QSA activities. Senate Bill 277 becomes operative upon enactment of related Senate Bills 317 and 654 on or before January 1, 2004.

Senate Bill 317 (Kuehl, Ducheny, and Machado)

Senate Bill 317 re-constitutes the language in Fish and Game Code 2081.7 associated with implementation of the Quantification Settlement Agreement (QSA) that was originally intended to

become effective on December 31, 2002. This proposed legislation requires a QSA to be executed among the parties by October 12, 2003.

The proposed legislation authorizes the Resources Agency to develop, select, and implement the preferred alternative associated with Salton Sea restoration. Also, it requires the Secretary of Resources to prepare a study related to the restoration of the Salton Sea ecosystem and develop a Memorandum of Understanding for federal participation in restoration of the Salton Sea.

With respect to California Fully Protected Species, the CDFG is authorized to provide incidental take authorization of fully protected species associated with the following activities: (1) salinity, elevation, shoreline habitat, and water quality of the Salton Sea; (2) the quantity and quality of the water in the All-American Canal and Coachella Canal, IID drains, New and Alamo Rivers, etc.; (3) agricultural lands in the Imperial Valley; and (4) the quantity and quality of Lower Colorado River water and associated habitats.

The Imperial Irrigation District is authorized to transfer up to 800,000 acre-feet in exchange for \$175 per acre-foot and transfer the conserved water to the CDWR. As a condition of water acquisition, CDWR is responsible for any environmental impacts related to Salton Sea salinity. Also, MWD is authorized to purchase up to 1.6 million acre-feet of conserved water at \$250 per acre-foot, based upon an agreed upon schedule. MWD will pay not less than \$20 per acre-foot for surplus mainstream water made available through reinstatement of the Interim Surplus Guidelines. The MWD is entitled to receive a "mitigation credit" related to any mitigation activities which are compatible with measures identified in the LCR MSCP Conservation Plan and are deemed consistent with Salton Sea restoration activities. Finally, The Coachella Valley Water District (CVWD), IID, and San Diego County Water Authority (SDCWA) will pay a total of \$30 million into the Salton Sea Restoration Fund.

The Secretary of Resources, in consultation with CDWR, Salton Sea Authority, and appropriate air quality districts, will prepare a study to identify the preferred alternative for Salton Sea restoration. The Secretary of Resources is also authorized to enter into an MOU with the Secretary of the Department of the Interior to ensure adequate federal participation in Salton Sea restoration.

The study identifying the preferred alternative is to be completed and submitted to the legislature by December 31, 2006. The Secretary of Resources may also create an advisory committee comprised of agricultural interests, local governments, conservation groups, tribes, recreational interests, water agencies, and the Department of the Interior in an *ex officio* role.

During the term of the QSA, any conserved water transferred will be subject to an "ecosystem restoration fee." This fee shall not exceed ten percent (10%) of the total amount of compensation received for the transfer. This collected fee shall be deposited in the Salton Sea Restoration Fund. The legislation also authorizes CVWD, IID, and MWD to enter into Storage and Interstate Release Agreements (SIRA) pursuant to CFR 43, Part 414.

Senate Bill 654 (Alpert, Ducheny, Escutia, and Kuehl)

This proposed legislation re-commits the legislative intent to utilize the \$200 million in bond funds for the canal lining projects on the All-American and Coachella Canals, and extends the date of project completion to December 31, 2008, from December 31, 2006. Also, this bill provides \$35 million for installation of recharge, extraction, and distribution facilities related to implementation of the Colorado River Water Use Plan.

The proposed legislation provides legislative intent to provide \$50 million from the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 to prepare the Salton Sea Restoration Study, assist in implementation of the preferred alternative, and/or develop and implement a Fish and Game Code 2081 incidental take authorization or Natural Communities Conservation Planning process. The legislation also provides legislative intent for the authorization of incidental take for fully protected species related to the Colorado River Water Use Plan activities.

CDFG is authorized to enter into a Joint Powers Agreement with CVWD, IID, and SDCWA to provide payment of the costs associated with environmental mitigation requirements. Costs, up to \$133 million shall be paid by IID, CVWD, and SDCWA for environmental mitigation requirements. As mentioned previously, IID, CVWD, and SDCWA will pay \$30 million into the Salton Sea Restoration Fund. No further obligations shall be required of IID, CVWD, and SDCWA, with any additional costs, if necessary, to be borne by the State of California.

Finally, the environmental review process associated with all of these activities does not include the LCR MSCP. Senate Bill 654 becomes effective upon enactment of Senate Bill 277 and Senate Bill 317.

Basin States Discussions

Representatives from the Colorado River Basin states met with representatives from the Department of the Interior and the Quantification Settlement parties on August 25th and 26th to discuss the status of the QSA discussions. During the meetings there was continued discussion of the "10-page" QSA document drafted by the Department of the Interior and the QSA parties and alternates to it. Also, Nevada presented a proposal to receive 330,000 acre-feet of water that would be purchased and banked in California and then delivered to Nevada over a 20-year period, through 2021. Nevada would pay \$250 per acre-foot for the water that it received.

At this time, the Southern Nevada Water Authority has a water demand within its service area that exceeds the quantity of water that can be expected to be received through the Interim Surplus Guidelines, if the Guidelines are reinstated. I anticipate that further Basin states meetings will be held to discuss Nevada's water supply situation and ways that it might be addressed whether the QSA is executed or not.

Colorado River Environmental Activities

Lower Colorado River Multi-Species Conservation Program

As reported at the last Board meeting, the LCR MSCP Technical Contractors have prepared administrative drafts of the LCR MSCP Habitat Conservation Plan (HCP) and Biological Assessment (BA). These draft documents were released for review and comment on August 21, 2003. Currently, staff from participating agencies are reviewing the draft documents and preparing comment packages. Also, a small technical work group, representing the LCR MSCP Steering Committee, is planning an intensive two-day meeting in Sacramento, California with representatives of the Technical Contractors to review the comments and provide technical and policy-level guidance on preparation of the final drafts of the documents.

Generally, the administrative draft documents are a significant improvement over prior versions. However, there are still some concerns with information portrayed in Chapter 3 (Biological Resources), Chapter 4 (Impact Assessment), and Chapter 5 (Conservation Plan). The California LCR MSCP agencies believe that the documents need to better reflect the important relationships between the covered species and habitats and the potential impacts of the covered projects and the proposed conservation strategy. Resolving these differences is the primary purpose for the two-day meeting with the contractors later this week in Sacramento. I can report that the LCR MSCP participants are still on schedule to finalize the documents in mid-2004, with a Record of Decision in late-2004. This will permit implementation of the LCR MSCP to be initiated in early-2005.

With respect to the proposed Points-of-Tentative Agreement with the California Department of Fish and Game, I can report that we still have several areas of significant disagreement with the Department. Specifically, these issues include the following: (1) The amount of restored habitat to be maintained within the State of California; (2) How "covered" non-listed species will be addressed within the context of the LCR MSCP; (3) The role of the LCR MSCP EIS/EIR in meeting the Department's statutory requirements in issuance of the Section 2081 incidental take authorization; and (4) Issues related to perpetuity, endowment and enhancement fees, assured funding, fully protected species, long-term monitoring, the 2081 permit application process time line, and memoranda of understanding addressing programmatic streambed alteration and species surveys. The California LCR MSCP Agencies and the Department are continuing to meet and discuss these issues. One option is moving forward with the federal permitting processes, and developing a separate, but parallel, process with the Department.

The California agencies continue to make progress in their discussions with representatives of Arizona, Nevada, and Reclamation with respect to addressing the long-term mainstream water use needs and related accounting issues associated with implementation and maintenance of LCR MSCP riparian habitat restoration. Mr. Harris and I met with representatives of Arizona, Central Arizona Project, and Nevada on September 3, 2003, in Phoenix, Arizona. Issues being evaluated include the following: (1) quantification of mainstream water use needs associated with the 8,132 acres of

proposed restoration; (2) requirements for preparation of detailed site-specific water budget analyses; (3) categorization of “system loss” consumptive use on undeveloped lands converted to native riparian habitats; and (4) Decree accounting requirements on lands converted from agriculture to riparian habitat.

Lower Colorado Water Supply Project (LCWSP)

Associated with the LCWSP, IID began operating the well field on August 1st, and as of August 21st, had pumped 440 acre-feet of the scheduled 910 acre-feet required to meet the City of Needles and BLM’s water requirements for 2003. IID reported that the two pumps are capable of pumping 23.6 AF per day.

With regard to the Blythe Energy Project (BEP), specifically Phrase II, the California Energy Commission (CEC) has requested that the Board address nine questions concerning BEP’s Application For Certification (AFC). A draft response to these questions has been prepared by the staff and sent to the Board members, alternates, and agency managers for review.

Briefly, the Board’s response to each question is discussed below:

1. What is the current status of the Colorado River water supply for the water rights holders?

The Colorado River basin is experiencing a fourth year of drought and little, if any, surplus water will be made available to the Lower Basin states. Already Coachella and MWD have had their water schedules reduced for this calendar year. Reclamation has informed all water contractors: 1) that they must limit their use of water to the amounts approved by Reclamation for diversion; and 2) that they should implement immediate conservation programs to reduce demands.

2. Does the use of groundwater from below the USGS accounting surface constitute Colorado River water in the eyes of the CRB?

The Board’s draft response cited the U.S. Supreme Court’s definition of “consumptive use” in its 1964 Decree. As a result, Reclamation and the CRB presume that such water would be considered Colorado River water for accounting purposes, since the water pumped would be replaced with water from the Colorado River.

3. Understanding that Reclamation has jurisdiction over this groundwater, it appears that this authority has not been generally exercised to regulate or account for this unauthorized use.

The Board’s draft response provided a history of the U.S. Supreme Court’s and Reclamation’s efforts to curtail the unauthorized use of Colorado River water, starting

with the 1979 Supplemental Decree in which Present Perfected Rights were recognized; Reclamation's efforts in 1964 and 1985 to notify well owners along the River of the need to obtain a contract for the authorized use of Colorado River water; followed by Reclamation's issuance of a draft rule in 1994 for administering entitlements to Colorado River water; and finally, the creation of the Lower Colorado Water Supply Project by Congress in 1986 to address unauthorized use of Colorado River water in California.

4. Are authorized users of Colorado River water impacted in any way by the unauthorized use of Colorado River water?

Unauthorized use of Colorado River water reduces the amount of water otherwise available to authorized users in an amount equal to the magnitude of the unauthorized use. Colorado River supplies were reduced this year due to unauthorized use as the U.S. Supreme Court's 1964 Decree in *Arizona v. California* enjoins the Secretary of the Interior from delivering more than the collective amount authorized by the Decree, 4.4 million acre-feet under a normal condition, to entities holding contracts or present perfected rights. Reclamation maintains records of the amounts of water ordered and approved for diversion, as well as the amounts of water used by each contractor and present perfected right holder as required by the Decree. The impacts of unauthorized use have been determined by Reclamation calculating the reduction in approved diversions that must occur to offset unauthorized use of Colorado River water.

5. What is the nature of impacts from the unauthorized use of Colorado River water?

The unauthorized use of Colorado River water results in less water being available to contract holders. Coachella, in 2003, had to obtain 40,000 acre-feet of water at a cost of about \$12,000,000 by leasing farmland in the Palo Verde Valley and ceasing irrigation of that land.

6. Have the impacts of unauthorized users been quantified?

Reclamation, this year, used an estimate 6,600 acre-feet of unauthorized use in California when it reduced Coachella's and MWD's water orders.

7. Is it possible to either eliminate or mitigate impacts from unauthorized users?

Participation in a project, such as the Lower Colorado Water Supply Project, would eliminate the impacts of an unauthorized use.

8. If it is possible to mitigate impacts to authorized users, is a Water Conservation Offset Program (WCOP) acceptable?

As in "7" above, a WCOP that has a verifiable water conservation element and is acceptable to Reclamation, such as Coachella's program with farmers in Palo Verde Valley, would provide a means to mitigate impacts by unauthorized users.

- 9. If a Water Conservation Offset Program as proposed by BEP II is acceptable mitigation, would it be necessary for actual water conservation, sufficient to offset the project's water use, to occur and be verifiable?**

For a water conservation offset program to be acceptable mitigation, actual water conservation would be necessary in an amount sufficient to offset the BEP II water use. Verification would be necessary to ensure that the amount of water unused for other reasons in the service area is not being credited against the water conservation offset program.

WATER QUALITY

Perchlorate-State of Scientific Knowledge

When the perchlorate report was presented at the June Board meeting, Board members requested a quarterly update on the status of the perchlorate remediation activities in the Las Vegas Valley to reduce the perchlorate load to the Las Vegas Wash and consequently to the Colorado River. This brief report is prepared in response to that request.

In 1997 perchlorate was detected in the Colorado River by MWD. The source of contamination was tracked by MWD, SNWA and Nevada Division of Environmental Protection (NDEP) to the Las Vegas Wash. The total perchlorate load to the Las Vegas Wash, when the problem was identified, was estimated to be approximately 900 lbs/day. The remediation efforts for preventing perchlorate to reach the Las Vegas Wash began in 1998 following detection of perchlorate in the Colorado River, in 1997. The remedial activities for controlling the Kerr-McGee plume including; construction of the IX systems, and the wells that were constructed to capture and remove perchlorate from the plume, have been effective in reducing the perchlorate load to the Las Vegas Wash.

The estimate of the load to Las Vegas Wash at the North Shore Road Station based upon the June monitoring data is approximately 200 to 300 lbs/day. However, the goal of the remedial efforts is to have a non-detectable concentration at the North Shore Road Station; therefore, a new Fluidized Bed Reactor treatment system is being constructed to achieve that goal. The priority for NDEP is to control the entry of perchlorate into the Las Vegas Wash. Thus, efforts are being focused on remedial efforts at the Kerr-McGee site. However, work is continuing on AMPAC's shallow perchlorate plume.

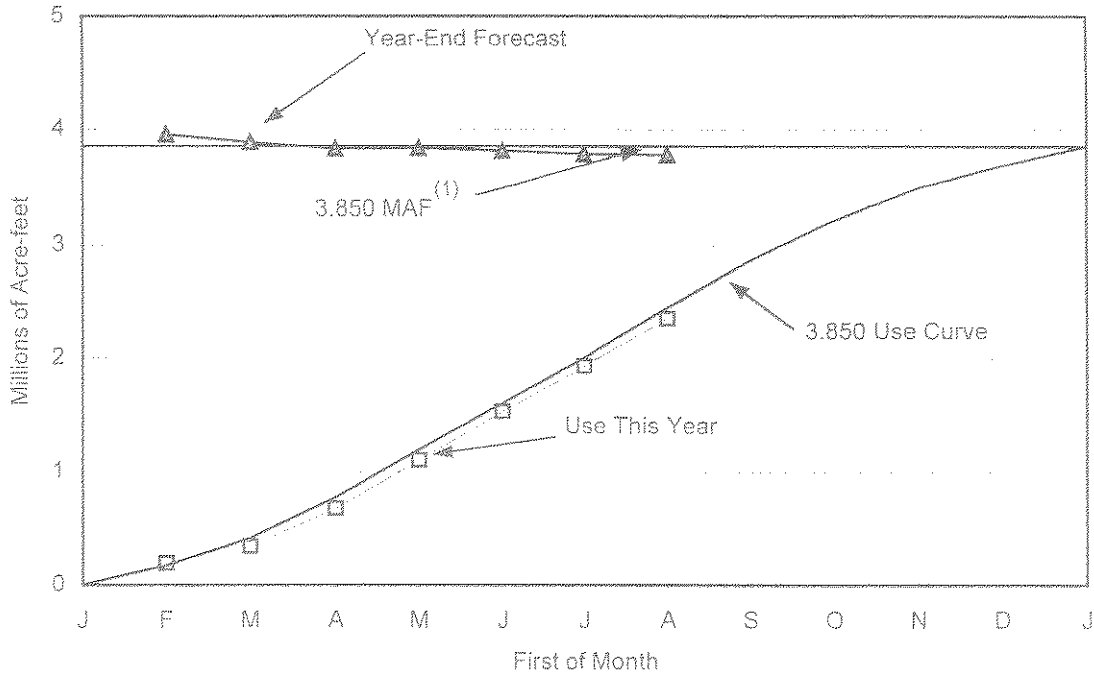
The AMPAC plume is mainly in a deep aquifer, which does not contribute to the load at Las Vegas Wash, at this time. A treatment unit is being installed to remove the perchlorate from the shallow plume, with more work to be done to remove perchlorate from the deep plume.

A model is being developed to evaluate the effectiveness of the remedial efforts. The preliminary results of the model studies indicate that the perchlorate load to the Wash will drop to approximately 180 lbs/day by October of 2003 and to 20-30 lbs/day by October of 2004. Based upon these model studies, the travel time through Lake Mead and downstream in the Colorado River to MWD's intake may be about one year. This means that although gradual reduction of perchlorate concentration in the Colorado River water will occur; it may take years to completely flush perchlorate from the river system to have a non-detect level of perchlorate in Colorado River water.



Gerald R. Zimmerman
Executive Director

FIGURE 1
AUGUST 1 FORECAST OF 2003 YEAR-END COLORADO RIVER WATER USE
BY THE CALIFORNIA AGRICULTURAL AGENCIES



Forecast of Colorado River Water Use by the California Agricultural Agencies (Millions of Acre-feet)			
Month	Use as of First of Month	Forecast of Year End Use	Forecast of Unused Water (1)
Jan	0.000	-----	-----
Feb	0.190	3.951	-0.157
Mar	0.339	3.882	-0.088
Apr	0.676	3.827	-0.033
May	1.102	3.833	-0.039
Jun	1.530	3.811	-0.017
Jul	1.933	3.788	0.006
Aug	2.358	3.777	0.017
Sep			
Oct			
Nov			
Dec			
Jan			

(1) The forecast of unused water is based on the availability of 3.794 million acre-feet under the first three priorities of the water delivery contracts which accounts for the 55,592 acre-feet of conserved water available during 2002 respectively in accordance with the 1988 IID-MWD Conservation Agreement and the 1989 IID-MWD-CVWD-PVID Approval Agreement.