

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

December 14, 2004

ADMINISTRATION

Board Meeting Schedule for Calendar Year 2005

Enclosed in the Board folder is a copy of the proposed Board meeting schedule for calendar year 2005. I would like to point out that the May 4th Board meeting is scheduled to be held in conjunction with the Association of California Water Agencies (ACWA) spring meeting in San Jose, California. Also, I propose that we schedule the August 24th meeting to be held in conjunction with the Urban Water Institute's annual meeting in San Diego. As the August meeting is being held so late in the month, I am tentatively proposing that the regular meeting of the Board in September be cancelled.

Resignation of Assistant Secretary of the Interior, Bennett W. Raley

On December 2, 2004, Assistant Secretary of the Interior for Water and Science, Bennett W. Raley, announced his resignation from the Administration, effective December 3rd. He has indicated that he would like to return to private practice of law and spend more time with his family. A copy of the Los Angeles Times article reporting his resignation is included in the Board folder.

Appointment of Deputy Director for the California Department of Fish and Game

On November 28th, Governor Schwarzenegger appointed Mr. Paul Stein as the Deputy Director for the California Department of Fish and Game (CDFG). Mr. Stein was a Calaveras County District Supervisor at the time of his appointment by Governor Schwarzenegger.

AGENCY MANAGERS MEETING

Meeting and conference calls have been held among the Agency Managers, Lower Colorado River Multi-Species Conservation Program (LCR MSCP) participants, and representatives from the California Department of Fish and Game (CDFG) in attempt to obtain California Endangered Species Act (CESA) compliance for the LCR MSCP concurrent with the federal Endangered Species Act (ESA) compliance. Conference calls prior to the meeting with CDFG on November 10th were held to discuss the draft CESA Section 2081 application that was submitted to CDFG by the California entities. Following the November 10th meeting with CDFG, the draft CESA application was revised and, again, forwarded to CDFG. After receiving the revised draft CESA Section

2081 application, CDFG representatives were of the opinion that another meeting to review the draft CESA application was unnecessary. As such, CDFG proceeded to prepare a draft of its CESA Section 2081 permit.

A conference call was held on December 10th among the California agencies to discuss the draft permit and a meeting was held on December 13th with CDFG to go over the provisions contained in the draft CESA Section 2081 permit. At the Board meeting, I will report on the outcome from the December 13th meeting with CDFG.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

As of December 1, 2004, storage in the major Upper Basin reservoirs decreased by 223,000 acre-feet and storage in the Lower Basin reservoirs increased by 241,000 acre-feet during November. Total System active storage as of December 9th was 29.854 million acre-feet (maf) or 50 percent of capacity, which is 3.307 maf less than one year ago.

November releases from Hoover, Davis, and Parker Dams averaged 8,430, 8,070 and 4,810 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of December 2004 are 8,000, 6,200, and 4,400 cfs, respectively. The December releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir. In October, there was 3,221 acre-feet of mitigation water delivered to the Salton Sea. Through the end of October 2004, a total of 14,171 acre-feet of mitigation water was delivered to the Salton Sea.

As of December 8th, taking into account both measured and unmeasured return flows, the Lower Division States' consumptive use of Colorado River water for calendar year 2004, as forecasted by Reclamation, totals 7.381 maf and is described as follows: Arizona, 2.796 maf; California, 4.301 maf; and Nevada, 0.284 maf. The Central Arizona Project (CAP) will divert 1.643 maf, of which 0.301 maf are planned to be delivered to the Arizona Water Bank. The Metropolitan Water District of Southern California (MWD) will use about 0.687 maf, which is 3,000 acre-feet more than its 2003 use of mainstream water.

The preliminary end-of-year estimate by the Board staff for 2004 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 3.586 maf. This estimate, by Board staff, is based on the collective use, through October 2004, 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

Reclamation Adjusts Releases from Lower Basin Reservoirs due to Precipitation Increases

Included in the Board folder is a press release from Reclamation, dated November 23rd, regarding a reduction in flow releases from Davis and Parker Dams, due to recent rainfall events in Southern California and Arizona. The flow release reductions were implemented because mainstream water users typically cut back on their water orders during periods of precipitation, as they do not need their normal amount of water. Taking this action allows Reclamation to better manage and conserve as much water as possible in the reservoir system.

2005 Annual Operating Plan

As we discussed at the last Board meeting, the 2005 Annual Operating Plan for the Colorado River System Reservoirs (2005 AOP) was finalized at a consultation meeting with the Basin States, Reclamation, and other interested parties on September 24th in Las Vegas, Nevada. Secretary of the Interior, Gale Norton, signed the final 2005 AOP on November 19th and distributed it to the governors of the seven Colorado River Basin states and others. The 2005 AOP provides that the “Normal” criterion will govern operations of Hoover Dam during Calendar Year 2005. This determination was made based upon the August 2004 24-Month Study estimate of Lake Mead’s water surface elevation as of December 31, 2004. As discussed at previous Board meetings, the 2005 AOP calls for mid-year reviews of the releases from Glen Canyon Dam and the operations of Hoover Dam. A copy of the final 2005 AOP can be obtained from Reclamation’s Lower Colorado Regional Office webpage at <http://www.usbr.gov/uc/water/rsrvs/ops/aop/aop05draft.pdf>. Also, a copy of the final 2005 AOP has been included in the Board folder.

Five-Year Review of the Long-Range Operating Criteria

Reclamation recently held a public meeting in conjunction with concluding the 2000 five-year review of the Long-Range Operating Criteria for the Colorado River Reservoir System. A few limited changes to the operating criteria have been proposed by Reclamation. While these changes are not substantive, Reclamation, pursuant to the consultation requirements of the 1968 Colorado River Basin Project Act, has implemented a public review and comment period and held the public meeting on November 19th.

As the Board may recall, the Board submitted formal written comments on March 29, 2002, stating that, with the adoption of the Interim Surplus Guidelines, changes to the operating criteria were not required at the present time. Following my attendance at the November 19th public meeting in Henderson, Nevada, I prepared additional written comments on December 1st. In the letter, I indicated that the proposed limited changes were acceptable and ministerial in nature. Additionally, I indicated that it would be

desirable to have more specificity in the operating criteria in order to better facilitate preparation of the AOP each year. Finally, the letter requests Reclamation to bring the 2000 review of the long-range operating criteria to a close and begin working on the 2005 review. Copies of the Board's December 1st comment letter and Reclamation's public meeting announcement have been included in the Board folder for your information.

Proposed Modification to the Article V Decree Accounting Procedures in the Yuma Area

Reclamation has been working closely with water users in the Yuma area to evaluate Article V Decree accounting procedures. Reclamation, in conjunction with water users have identified three distinct Decree accounting methodologies, including: (1) the Mainstream Water Option; (2) the Arizona Preferred Option; and (3) Current Decree Accounting Option (i.e., the status quo). According to the draft report prepared by Reclamation, the three options can be described as follows:

- Current Article V Decree Accounting Option – This method evaluates the relationship between diversions, consumptive use, and measured and unmeasured return flows. The utilization of groundwater in the Yuma region, via pumping from wells, has proven to be problematic in quantifying annual consumptive use pursuant to Article V of the Decree ;
- Mainstream Water Option – This option evaluates the diversion and use of both surface and groundwater in the region and utilizes an annual check to monitor groundwater withdrawals and any applicable return flow or recharge to the aquifer above and below the Northerly International Boundary with Mexico (NIB); and
- Arizona Preferred Option – This option is similar to Mainstream Water Option, but would eliminate the annual check of groundwater withdrawals from wells downstream of the NIB. Also, this option would not credit diverters for the return flows or recharge of the aquifer unless it was available for diversion in the United States above NIB, or it could be supplied as part of the Treaty delivery to Mexico at NIB.

Based upon the three options identified in Reclamation's draft report, the Board submitted written comments on December 1st. Generally, the Board requested that Reclamation implement a number of safeguards if an option other than the Mainstream Water Option was selected. These proposed safeguards include the following:

- Protection of the water quality and quantity of the Minute 242 well field;
- Monitoring of the water surface elevation of the groundwater table in the Yuma area in an extensive fashion to determine:
 - The amount of water being pumped that will be replaced by Colorado River mainstream water, if any,
 - The impact that pumping has, or will have, on the Minute 242 well field, and

- The quantity of water being mined from the groundwater aquifer and the aquifer's safe yield (by conducting an annual water balance for the groundwater aquifer in the Yuma area);
- Review and, as appropriate, modification of the unmeasured return flow calculations for each of the Colorado River entitlement holders in the Yuma area;
- Enforcement of Title 43 of the Code of Federal Regulations, Part 417, regarding water conservation in a strict manner; and
- Elimination of all unauthorized use of Colorado River water in the Yuma area and within the Lower Colorado River Basin.

Included in the Board folder is a copy of the December 1st letter to Bob Johnson commenting on Reclamation's proposed Article V Decree accounting in the Yuma area.

Revision of Calendar Year 2004 Diversion Estimates for The Metropolitan Water District of Southern California and the Central Arizona Water Conservation District

As occurred last month, both The Metropolitan Water District of Southern California (MWD) and Central Arizona Water Conservation District (CAWCD) have revised their estimates of diversion for Calendar Year 2004. This will permit both agencies to divert mainstream water that is currently projected to be unused within the states of Arizona and California. Based upon Reclamation's approval of the revised diversion estimate, MWD will divert an additional 52,180 acre-feet of mainstream water. This additional diversion amount will bring MWD's total 2004 diversion to 707,180 acre-feet. Included in the Board folder is a copy of Reclamation's November 23rd letter to MWD approving its revised diversion estimate.

Similarly, CAWCD has submitted a letter, dated November 17, 2004, to Reclamation indicating how much mainstream water is projected to be diverted for the remainder of 2004. Additionally, CAWCD's letter specifies that further adjustments to its Lake Havasu diversions may be necessary if unused Arizona apportionment is available prior to the end of the year. Alternatively, CAWCD indicated that any unused Arizona apportionment not diverted should be retained within the reservoir system.

Revised Schedule of Calendar Year 2004 Water Deliveries to Mexico

Included in the Board folder is a copy of a letter from Reclamation to the American Section of the International Boundary and Water Commission (IBWC) regarding Mexico's request to increase November water deliveries at the Southerly International Boundary (SIB) and decrease deliveries at the Northerly International Boundary (NIB). The Mexican request was made in order to facilitate an increase in water deliveries to the City of Tijuana, Baja California del Norte. The change resulted in a reduction of 186 acre-feet being delivered at the NIB during the month of November.

Southern Nevada Water Authority's Storage of Mainstream Water with MWD

The Southern Nevada Water Authority (SNWA) notified Reclamation and MWD in letters, dated November 18, 2004, that it intended to store 10,000 acre-feet of Nevada unused 2004 apportionment with MWD. This arrangement is possible pursuant to a recently executed Storage and Interstate Release Agreement (SIRA). This complements an earlier action by SNWA to store 10,000 acre-feet in the Arizona Water Bank, pursuant to a SIRA executed with the State of Arizona.

In a related note, included in the Board folder is a copy of a recent article published in the Arizona Republic on December 3rd regarding Nevada's intention to acquire up to 1.25 million acre-feet of mainstream water stored in the Arizona Water Bank, in exchange for \$330 million and a pledge to assist Arizona in restoring "top-priority status" to mainstream water diverted and conveyed via the Central Arizona Project (CAP). The proposed agreement is to be presented to the Arizona Water Banking Authority during its December meeting and provides that the water delivered in increments over nearly two decades. SNWA would make an initial lump sum payment of \$100 million and then followed by ten installments of \$23 million, beginning in 2009. Nevada has indicated that it would be willing to pledge political support to aid in firming the priority of Arizona's CAP water supply.

MWD/AWBA Recovery Agreement for 2005

As you may recall, MWD has stored 89,000 acre-feet of mainstream water in Arizona, pursuant to the 1992 Demonstration Agreement. MWD proposes to recover 40,000 acre-feet of the previously stored water during 2005. The Long-Term Storage credits developed as a result of the 1992 Demonstration Agreement would then be transferred to the Arizona Water Banking Authority and converted to Intentionally Created Unused Apportionment and scheduled for diversion by MWD at its Whitsett Diversion facilities in Lake Havasu. Copies of the December 1, 2004, proposed letter agreement between MWD and the AWBA, and MWD's September 2, 2004, letter to CAWCD requesting delivery of the previously banked water, are included in the Board folder for your information.

Basin States/Tribes Discussions

Lower Basin States' Response to Upper Basin States' Concerns Regarding Colorado River Allocations

On November 16th, the Lower Basin states responded, via letters, to the Governor's representatives in the Upper Basin states and to the Secretary of the Department of the Interior regarding the concerns expressed by the Upper Basin states associated with water delivery obligations pursuant to the Colorado River Compact, Boulder Canyon Project Act, and Decree in *Arizona v. California*. The Lower Basin states have scheduled a meeting of the Basin States representatives to discuss and better understand the concerns of the Upper Basin states. The meeting will be held in Las

Vegas, on December 17th, following the annual conference of the Colorado River Water Users Association.

*House and Senate Conference Report
Regarding Reclamation's Lower Colorado Region Activities*

A recent House and Senate Conference Report, associated with appropriations to the Department of the Interior, describes several Reclamation activities in the Lower Colorado Region. The conference agreement appropriates \$4.5 million for work to be performed under the Colorado River Front Work and Levee System project, including the regulatory storage reservoirs along the All-American Canal. The conferees expressed concern in the report about the continued impact of the Wellton-Mohawk Bypass Drain discharge of over 100,000 acre-feet to Mexico each year that is not counted as part of the 1944 Mexican Water Treaty obligation. Consequently, the conferees are requesting Reclamation to expedite modifications at the Yuma Desalting Plant and necessary compliance in order to operate the plant and alleviate the continued loss of mainstream water from the reservoir system. The conferees propose to require Reclamation to report on the status of operating the plant within 180 days of enactment of the appropriations legislation.

Colorado River Environmental Activities

Status of the Lower Colorado River Multi-Species Conservation Program (LCR MSCP)

Finalization of the Final LCR MSCP Habitat Conservation Plan (HCP), Biological Assessment (BA), and Environmental Impact Statement and Environmental Impact Report (EIS/EIR) are nearing completion. Additionally, a separate volume containing all of the public comments and the Lead Agency responses has been prepared and will be distributed with the final documents. These finalized documents were recently submitted to the U.S. Fish and Wildlife Service (USFWS). The USFWS has initiated its internal review leading to the issuance of the Biological Opinion and Incidental Take Authorization permits for the non-federal participants.

Over the past month, many of the participating agencies legal staff and advisors have been working on the development of the final drafts of the Implementation and Funding Management Agreements. These documents were finalized in draft form and distributed in late-November for review and comment. Additionally, the non-federal representatives and the USFWS are working on a draft of the incidental take permit terms and conditions. With respect to completion of the LCR MSCP, the process is still on track to meet the deadline for completion in late-2004, leading to execution of the Record of Decision by the Secretary of the Department of the Interior in early-2005.

Regarding the LCR MSCP completion schedule, several participating agencies in Arizona, as well as the Imperial Irrigation District (IID), have expressed concern to Reclamation about trying to obtain board or commission approvals for the various compliance documents in December 2004 or January 2005. Of note, the participating

California agencies cannot seek necessary approvals from their respective Boards until after the CEQA EIR is certified by MWD, which may not occur until February. Taking into account when the various Boards make take action, the Department of the Interior is attempting to determine when to hold a signing ceremony, or ceremonies, to acknowledge execution of the Record of Decision, the Implementation Agreement, and the Funding Management Agreement. Included in the Board folder is a copy of IID's November 22nd letter to Reclamation requesting an adjustment in the LCR MSCP completion schedule.

The California agencies are working with the California Department of Fish and Game (CDFG) to develop the related CESA Section 2081 Incidental Take Authorization permit package for the LCR MSCP. The CESA 2081 permit terms and conditions must be identified and approved by all of the participating California agencies and CDFG prior to the execution of the federal Implementation Agreement. Toward that end, the California LCR MSCP parties have submitted a draft of the CESA 2081 Permit Application to CDFG for its review. Based upon the agencies' permit application and the mitigation proposal described in the draft HCP, CDFG is in the process of preparing a draft 2081 incidental take permit for review and discussion among the California agencies. A meeting with CDFG to discuss the draft 2081 incidental take permit was scheduled for December 13th and 14th. A report on the outcome from that meeting will be provided at the Board meeting.

Glen Canyon Dam Adaptive Management Program

Reclamation initiated another flood-flow release experiment from Glen Canyon Dam on November 21st. The flow release peaked at 41,000 cubic-feet-per-second (cfs) for 2.5 days and was dropped to 8,000 cfs. The intent of the experiment was to mobilize sediments recently deposited in the Lees Ferry reach of the Colorado River just below the confluence with the Paria River. Because of summer monsoonal events, scientists estimated that approximately 800,000 tons of sediment were available to be mobilized and deposited on downstream beaches throughout the Grand Canyon. It is also hoped that the flood flows will restore and enhance backwater environments that provide valuable habitat for native fishes occupying the Grand Canyon reaches of the Colorado River.

Included in the Board folder are copies of Reclamation's Environmental Assessment (EA) for the proposed flood-flow release, response to comments received on the EA, and the Living Rivers organization's comments; as well as, several recent newspaper clippings describing the flood-flow experiment.

Salton Sea Authority Restoration Update

Included in the Board folder for your information is a copy of the November edition of the Salton Sea Restoration Project "Restoration Update." This edition of the newsletter describes the use and availability of Proposition 50 funds that have been allocated to the California Wildlife Conservation Board for utilization at the Colorado

River and Salton Sea. Additionally, the newsletter describes several proposed projects that are to be considered by the Salton Sea Advisory Committee.

Lower Colorado Water Supply Project (LCWSP)

Status of the Lower Colorado River Water Supply Project

The City of Needles (Needles) is continuing to execute subcontracts with the Lower Colorado Water Supply Project (LCWSP) beneficiaries to receive Project water. As of December 8th, 474 subcontracts in the amount of 1,829 acre-feet of water per year for current and for future use have been forwarded to potential applicants for execution. Of this total 479 acre-feet is for current use and 1,350 acre-feet is for future use. To date, 344, or 72.6 percent, of the subcontracts have been executed and returned to Needles.

With respect to the Hexavalent Chromium VI contamination at the PG&E Topock Gas Compression Station site I can report that PG&E started pumping groundwater in March 2004 in an effort to create a reverse gradient to prevent the contaminated groundwater from flowing toward the Colorado River. PG&E also started an on-site pump and treatment program at the gas compressor station on May 1, 2004. As of the end of November 2004, the total volume of groundwater pumped is approximately 12.1 million gallons, or 37.0 acre-feet. Currently, PG&E has an executed LCWSP subcontract for 280 acre-feet (200 for current use and 80 acre-feet for future use) per year with the City of Needles.

Advance Delivery

The Board recently received a letter, dated November 23, 2004, from Mr. Richard Rowe, City Manager of the City of Needles. The Needles Board of Public Utilities had requested that the City of Needles staff schedule a special meeting with the Public Utilities Board and City Council on December 14, 2004 to review the status of the Advance Delivery agreement and its related agreement for the water quality maintenance trust fund. In his letter, Mr. Rowe asked that I attend the meeting and provide additional information and answer questions regarding the advance delivery concept and the LCWSP. However, due to scheduling conflicts, the meeting has been rescheduled for December 28, 2004.

WATER QUALITY

Draft Environmental Impact Statement for Moab, Utah, UMTRA Project Site Available for Public Review and Comment

The U.S. Department of Energy (DOE) recently released a draft EIS associated with the proposed remediation project at the Moab, Utah, uranium mill tailings site. The draft EIS describes a proposed project to clean up the surface contamination at the site and implement a groundwater remedial action program. DOE will hold a series of public

meetings in conjunction with public review and comment on the draft EIS. Comments are due on the draft EIS by February 18, 2005. Board staff have requested a copy of the draft EIS and will prepare comments, as appropriate. A copy of the draft EIS can be obtained online at <http://gj.em.doe.gov/moab/>.

Gerald R. Zimmerman
Executive Director