

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

May 4, 2004

ADMINISTRATION

Fiscal Year 2004-2005 Budget for the Colorado River Board of California

On April 29, 2004, the Senate Subcommittee No. 2 on Resources, Environmental Protection, and Judiciary approved the Board's budget for fiscal year 2004-2005. For FY 2004-05 the Board will not receive any State funds; the budget of \$1,170,000 is totally funded by reimbursements from the agencies.

To date, the Assembly has not heard the Board's budget. It is anticipated that the Board's budget for FY 2004-05 will appear on the consent calendar of Assembly Resources Subcommittee No. 3 on May 12, 2004.

Included in the Board folder is a copy of the Board's proposed FY 2004-05 Budget for the Board members information. At the June Board meeting, the standard agreement between the Board and the Six Agency Committee, which approves the funding arrangement between the Board and the Six Agency Committee, will be discussed and action taken.

AGENCY MANAGERS MEETING

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

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

As of April 28, 2004, storage in the major Upper Basin reservoirs decreased by 174,900 acre-feet and storage in the Lower Basin reservoirs increased by 376,700 acre-feet during April. Total System active storage as of April 28th was 30.814 million acre-feet (maf) or 52 percent of capacity, which is 4.112 maf less than one year ago.

April releases from Hoover, Davis, and Parker Dams averaged 17,630, 17,350 and 12,630 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of May 2004 are 17,900, 16,900, and 12,300 cfs, respectively. The May

releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir.

The final April 15, 2003, observed April through July 2004 unregulated inflow into Lake Powell was 4.000 maf, which is 50 percent of the 30-year average for the period 1961-1990. The final April 15, 2003, projected unregulated inflow into Lake Powell for the 2003-04 water year was 6.655 maf, or 55 percent of the 30-year average.

As of April 28th, 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 7.338 maf and is described as follows: Arizona, 2.728 maf; California, 4.309 maf; and Nevada, 0.301 maf. The Central Arizona Project (CAP) will divert 1.525 maf, of which 0.308 maf are planned to be delivered to the Arizona Water Bank. The Metropolitan Water District of Southern California (MWD) will use about 0.499 maf, which is 0.185 maf less than its actual use of mainstream water in 2003.

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 3.733 maf. This estimate by the Board staff is based on the collective use, through March 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

Yuma Desalting Plant

On April 2, 2004, the Arizona Republic published an article that described the concerns of the Central Arizona Water Conservation District (CAWCD) regarding the current position of Arizona Governor Janet Napolitano and potential operation of the Yuma Desalting Plant. The article indicated that, at this juncture, the Governor is not inclined to ask the federal government to start up and operate the Yuma Desalting Plant. CAWCD, which operates the Central Arizona Project Aqueduct, is very concerned that by continuing to not operate the Desalting Plant, that the reservoir system, and specifically Lake Mead, is continuing to be drawn down and increasing the shortage risk to CAWCD and other water users in Arizona. The Governor recently requested the Arizona Department of Water Resources (ADWR) to remove language associated with the Desalting Plant from testimony being prepared for congressional budget committees. ADWR Director Herb Guenther indicated that Governor Napolitano is engaged on water issues and is still forming her administration's position on operating the Yuma Desalting Plant.

Letter of Support for Snow Survey and Water Supply Forecasting Programs

In response to Board action at its April meeting, I prepared a letter to the Senate Subcommittee on Agriculture, Rural Development and Related Agencies, on behalf of the Board, urging the restoration of adequate funding to maintain and operate the Snow Survey and Water Supply Forecasting Program (i.e., SNOTEL gaging system). At the April Board meeting the staff was directed to prepare a letter acknowledging the need for continuation of this important program and endorsing the recent position of the Western States' Water Council associated with this issue. Included in the Board folder is a copy of the letter for your information.

Environmental Organizations' Letter to American & Mexican Sections of the IBWC

Seventeen environmental organizations recently sent the American and Mexican sections of the International Boundary and Water Commission (IBWC) a letter requesting consideration of several alternative scenarios for addressing the flood capacity and boundary rectification issues in the Limitrophe Division of the Colorado River (River Miles 0.0-23.0). These organizations are concerned that approximately 6,700 acres of high quality native riparian habitat between Morelos Dam and the Southerly International Boundary (SIB) will be damaged or lost during the boundary rectification and flood capacity improvement project currently planned by IBWC.

In the letter, the environmental organizations have proposed the following alternative scenarios:

1. Consider Doing Nothing – The levee-to-levee flood capacity is estimated to exceed 75,000 cubic-feet-per-second (cfs), nearly twice the volume that Reclamation calculates as the 100-year flood. Consequently, the organizations suggest that no action is actually necessary.
2. Maximize Use of the Levees to Minimize Risk to Streamside Habitat – If the current proposed project is moved forward, the organizations suggest that IBWC consider raising the existing levees rather than dredging and channelizing the Colorado River in the Limitrophe section of the River. This would protect the existing riparian habitat.
3. Reconsider the need for the 15,000 cfs Pilot Channel – Dredging the pilot channel will dewater much of the 6,700 acres of riparian habitat in the Limitrophe section. The organizations suggest that the existing braided channel can already accommodate flows up to 15,000 cfs.
4. Assess Inside-Levee Risk – If homes and property inside the levees are found to be at risk, due to flooding, IBWC should consider buying the properties and relocating the landowners to lands outside of the levees. The environmental organizations maintain that this could be a less expensive alternative than the proposed project.
5. Identify and Protect Areas with Significant Habitat Value – The environmental organizations suggest moving the project such that existing wetland and riparian

habitats will be protected or the impact of implementing the project will be minimized.

6. Emphasize Habitat Restoration – While implementing the proposed project, the environmental organizations suggest that the IBWC incorporate restoration of cottonwood-willow, wetland, oxbow and backwater habitats into the final design concept.

The organizations have requested that the American and Mexican Sections of IBWC formally respond to the letter. A copy of the letter has been included in the handout materials for your information.

In a related matter, Mr. Harris is attending and monitoring a workshop being hosted by the Cocopah Indian Tribe, U.S. Fish and Wildlife Service (USFWS), Arizona Game and Fish Department, and several environmental organizations being held in Somerton, Arizona on May 6, 2004. The purpose of the workshop is to discuss all of the various species conservation and habitat restoration initiatives along the Lower Colorado River in the United States and Mexico, with a particular emphasis on activities in the Yuma region and the Limitrophe Division.

Basin States/Tribes Discussions

Basin States Discussions

As has been reported at previous Board meetings, representatives from the Colorado River Basin states have been meeting to discuss managing the Colorado River System during times of low runoff conditions, especially focusing on the next 24 to 36 months. The discussions have focused on three major topics: 1) the Interim Surplus Guidelines agreements and operation of the reservoir system under those agreements, 2) actions that could be carried out under drought management conditions, and 3) actions that could be carried out under shortage management conditions. The intent is to identify an array of potential projects and programs that could lessen the impact, or avoid the affects, of drought and shortage declarations and to begin discussions related to those potential opportunities. To date, an initial matrix of potential cooperative projects and programs has been identified and Reclamation staff has been tasked with making a computer run to show the range of potential impacts on the reservoir system as a result of the past four years of low runoff and with the potential for more years of below normal runoff conditions. The computer runs will be available in mid-May and a meeting has been scheduled to discuss the results of the computer runs on May 17th.

Once the results from the computer runs become available, the technical committee can begin to focus on the immediate actions that can be taken to lessen the impact, or avoid the affects, of drought and shortage conditions as it concurrently looks at shortage criteria and factors to be considered in determining when a shortage condition should be declared by the Secretary of the Interior.

Shortage Criteria

In a recent Sacramento Bee article, published on April 27, 2004, the Bush Administration has indicated that the Lower Division States must initiate a plan to develop shortage criteria for the Colorado River Reservoir System, or risk the U.S. Department of the Interior developing the criteria in their absence. Assistant Secretary Bennett Raley was quoted as saying, "We need the three lower basin states to get their act together and deal with shortages..." If the three states can't work out a plan, the Secretary of the Interior "will have to do it" for them. A copy of this article has been included in the handout material for the Board members' information.

Colorado River Environmental Activities

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

On April 15, 2004, the non-federal participants in the LCR MSCP process submitted the agency review drafts of the Habitat Conservation Plan (HCP) and the Environmental Impact Statement/Report (EIS/R) and an application for the Endangered Species Act Section 10(a)(1)(B) incidental take authorization to the USFWS. The draft HCP, EIS/R and Permit Application were accompanied by a cover letter from the non-federal partners to USFWS Director, Steve Williams. Concurrent with the submittal of the HCP and EIS/R, Reclamation submitted the agency review draft of the Biological Assessment (BA). Included in the Board folder is a copy of the letter to Director Williams for your information.

Regarding resolution of the outstanding issues related to the LCR MSCP, there is nothing new to report. A meeting among the federal and non-federal principals is scheduled for May 12, 2004, to continue the discussions and negotiations. Generally, the outstanding issues remaining between the federal and non-federal participants include the following: (1) the proposed 5-year approach to compliance as contained in the most-recent non-federal proposal; (2) the cost-sharing ratio (i.e., non-federal 80/20, and federal 50/50); (3) reimbursibility and no regulatory takings issue (i.e., if water or power is taken because of environmental compliance, it would be compensated); (4) no money damages (i.e., the government will not agree to no money damages if the contract is abrogated); and (5) issues related to the *United States vs. Winstar* (518 U.S. 839) decision from the United States Supreme Court in 1996 (i.e., related to contractual obligations and liabilities by parties to an agreement in light of potential future changes in laws and statutes).

Last month I reported that the USFWS had released a memorandum opinion that indicated that it could not issue a Section 10(a)(1)(B) incidental take authorization permit to the California LCR MSCP participants related to any of the California Fully Protected Species (i.e., razorback sucker, Yuma clapper rail, and California black rail) if the California Department of Fish and Game (CDFG) could not also issue incidental take authorization under the Fish and Game Code. I am pleased to report that CDFG

responded to the USFWS memorandum, via letter, on April 14, 2004. In the letter, CDFG has indicated the following:

“It is the Department’s position that, assuming the permit issuance criteria of the California Endangered Species Act are met, the Department may authorize the take of fully protected species under the LCR MSCP.”

CDFG based the rationale for this decision upon the recent legislative revisions to the Fish and Game Code pursuant to the QSA legislation. The Section 2081.7 Fish and Game Code language permits the take of fully protected species related to QSA activities; and related to activities associated with the quality and quantity of water flowing in the Colorado River, the habitat sustained by those flows, and the collection of that water for delivery to authorized users.

It is my understanding that the Department of the Interior’s Solicitor’s Office and the USFWS are re-evaluating the USFWS memorandum in light of the CDFG letter.

Southwestern Willow Flycatcher Surveys 2003

Reclamation recently released the results of the 2003 Southwestern willow flycatcher (WIFL) surveys along the Lower Colorado River. Reclamation contracted with SWCA Environmental Consultants to conduct the presence/absence surveys at 95 pre-selected survey sites. Additionally, SWCA performed life history and micro-climate studies at Pahrangat National Wildlife Refuge, Mesquite and Mormon Mesas, and Topock Marsh.

SWCA conducted the WIFL surveys between May 15, 2003 and July 25, 2004. WIFL were detected at 54 of the 95 sites. The SWCA teams discovered WIFL successfully breeding at 11 of the 95 sites. Of the WIFL detected at the various sites, 27 were birds banded during previous years survey efforts. Finally, the SWCA team trapped and removed a total of 237 brown-headed cowbirds from WIFL habitats.

Glen Canyon Dam Adaptive Management Program

Mr. Harris attended the Glen Canyon Dam Adaptive Management Program Technical Work Group (TWG) meeting in Phoenix, Arizona, on May 3-4, 2004. At the meeting, the TWG focused on refining the Long-Term Experimental Flows Plan and the Core Monitoring Plan. These two plans will guide the major activities of the Grand Canyon Monitoring and Research Center and the Glen Canyon Adaptive Management Program for the next several years.

Salton Sea Ecosystem Restoration Project EIR Notice of Preparation

As the Board has discussed at previous meetings, the California Departments of Water Resources (CDWR) and Fish and Game (CDFG) released a notice of preparation (NOP) for the environmental impact report (EIR) related to the Salton Sea Ecosystem

Restoration Project (SSERP). Several of the Colorado River Basin States, including Arizona, Nevada, Utah, and Wyoming, provided comment letters regarding the NOP. Arizona and Nevada specifically urged that CDWR and CDFG consider development of alternatives that included habitat restoration and species conservation along suitable portions of the Lower Colorado River. These types of activities would compliment and enhance the planned activities of the LCR MSCP Conservation Plan. Utah and Wyoming re-emphasized the importance of the QSA and California's Colorado River Water Use Plan in ensuring that California reduces its dependence on mainstream water supplies to its basic apportionment of 4.4 million acre feet annually.

American Rivers Most Endangered Rivers Designation 2004

On April 14, 2004, the environmental organization, American Rivers, released its "top-ten" endangered rivers list for 2004. Leading the list in the number one position was the Colorado River. This designation, according to American Rivers, is based upon several water quality-related concerns. These include the Moab uranium mill-tailings site, ammonium perchlorate contamination, and human waste contamination from cities and towns along the Colorado River. American Rivers believes that the Colorado River is at a crossroads and that the next 12 months will determine if these issues can be effectively addressed. American Rivers recommends that the federal government immediately implement a massive coordinated federal effort to address these pollution sources.

Lower Colorado Water Supply Project (LCWSP)

The City of Needles (Needles) is continuing to execute subcontracts with the Lower Colorado Water Supply Project (Project) beneficiaries to receive Project water. As of April 30th, over 474 subcontracts in the amount of 3,237 (479 for current use and 2,758 for future use) acre-feet of water per year for current and for future use have been forwarded to potential applicants for execution. To date, 339, 71.5 percent, of the subcontracts have been executed and returned to Needles.

The Board staff, Reclamation, the Bureau of Land Management, the City of Needles, and the Metropolitan Water District of Southern California (MWD) are reviewing a draft contract that provides for the use of the Project's excess capacity to deliver water to a MWD. This proposal would take advantage of the good quality water, while it is available, and provide the financial resources to ensure a long-term water supply source for the Project's beneficiaries. A copy of the draft contract was included in the April Board folder.

WATER QUALITY

Colorado River Basin Salinity Control Program

Colorado River Basin Salinity Control Forum Work Group Meeting

At the April Board meeting, the Board discussed the Salinity Program Funding issues and the preparation of testimony in support of the Salinity Control Program for the various committees and subcommittees in Congress. Six letters, on behalf of the Board, were prepared and transmitted to the appropriate subcommittees of the Senate and House Appropriation Committees urging adequate funding for the salinity program. Copies of the letters have been included in the Board folder for your information.

Also, at the April Board meeting the Board's staff reported on the progress that Reclamation had made toward calibrating the salinity model and resolving the problems with the old model. Mr. Amir-Teymoori attended the Colorado River Salinity Control Forum Work Group meeting in Salt Lake City in April. Because of the need to use the new model during the 2005 triennial review, one of the main agenda items of the Work Group was the status of the salinity model to accurately model the salinity in the River. You may recall from previous discussions, the old salinity model did not estimate the salt load accurately; and in fact, it overestimated salt loading. Reclamation has been undertaking research studies to develop a reliable model that can be used for prediction of salinity levels in the Colorado River.

At the Work Group meeting, Reclamation made a detailed presentation on the status of the new model. The results of the simulation runs indicate that the new model is adequate and Reclamation is comfortable with it. As a result, the Work Group has requested Reclamation to run several scenarios and present them to the Work Group at its next meeting in late July. Following the July meeting, the Work Group will decide on the criteria and assumptions that can be used for 2005 Triennial Review for the final model runs. The results of final runs will be reviewed at Work Group's August meeting and then presented to the Forum at its October meeting.

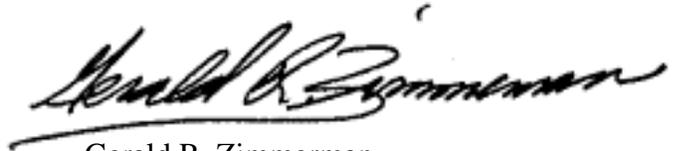
Update on the Ammonium Perchlorate Cleanup Project – Las Vegas Wash, Nevada

At the January 2004 Board meeting it was reported that there has been significant progress in perchlorate remediation efforts at Las Vegas Wash. It was also reported that Kerr-McGee's new treatment system would become operational in April 2004.

The Kerr-McGee FBR system has started as scheduled. The system is currently running in "start-up" mode and is expected to be fully operational in late-May 2004. The perchlorate load to Las Vegas Wash has continued to drop, but will reach the minimum when FBR system is fully operational. According to the Nevada Department of Environmental Protection, the perchlorate load to Las Vegas Wash prior to FBR system's operation was approximately 200 pounds per day, but will drop to approximately 10

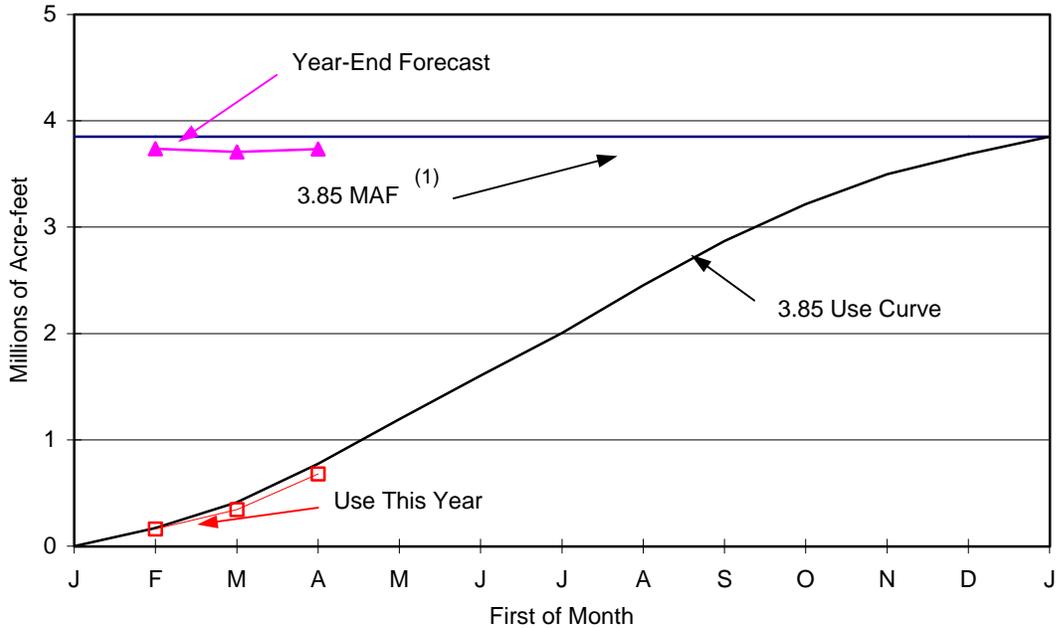
pounds per day. The perchlorate removal rate is approximately 1,921 pounds per day at this time. As of March 2004, approximately 1,200 tons of perchlorate have been removed from the environment.

In a related matter since January, the State Office of Environmental Health Hazard Assessment (OEHHA) has set the perchlorate Public Health Goal (PHG) at 6 ppb, which is higher than the action level of 4 ppb. The PHG is the level of a contaminant in drinking water that does not pose a significant short-term or long-term health risk. A PHG is not a regulatory requirement; instead, it is a goal for drinking water that California's public water suppliers and regulators should strive to meet if it is feasible to do so. State law requires OEHHA to develop PHGs for regulated drinking water contaminants. A California state law enacted in 2002 (SB 1822 by Senator Byron Sher) created a legal mandate for OEHHA to develop a PHG for perchlorate.

A handwritten signature in black ink, reading "Gerald R. Zimmerman". The signature is written in a cursive style with a horizontal line underneath.

Gerald R. Zimmerman
Executive Director

FIGURE 1
MAY 1 FORECAST OF 2004 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	0.162	3.738	-0.032
Mar	0.343	3.707	-0.001
Apr	0.680	3.733	-0.027
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			
Jan			

(1) The forecast of unused water is based on the availability of 3.713 MAF under the first three priorities of the water delivery contracts. This accounts for the 101,900 acre-feet of conserved water available to MWD during 2003 in accordance with the 1988 IID-MWD Conservation Agreement and the 1989 IID-MWD-CVWD-PVID Agreement as amended and 35,000 AF of conserved water available to SDCWA in accordance with the IID-SDCWA Transfer Agreement as amended. As USBR is charging disputed uses by Yuma Island pumpers to priority 2, the amount of unused water has been reduced by those uses - - 0.007 maf. The CRB does not concur with the USBR's viewpoint on this matter.