

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

October 12, 2004

AGENCY MANAGERS MEETING

The Agency Managers held a conference call on September 20, 2004, to discuss the funding requirements associated with the Board's FY-04/05 budget. During the call the Agency Managers agreed to a proposal to fully fund the Board's budget. There will be further consideration and discussion of these issues and the proposed funding agreement during the Six Agencies Committee meeting, following the Board meeting.

ADMINISTRATION

Governor's Appointment of Leonard Robinson to Department of Toxic Substances Control

On September 16th, Governor Schwarzenegger appointed Mr. Leonard Robinson as the Chief Deputy Director of the California Department of Toxic Substances Control. As many of you are probably aware, Mr. Robinson has a background of more than 30 years in environmental management, including hazardous waste and wastewater management. Mr. Robinson has a B.S. degree from the University of Southern California in chemical engineering and resides in Riverside, California.

California Performance Review

Mr. Jay Malinowski, representing the Colorado River Association, provided testimony at the public hearing of the California Performance Review Commission in Fresno, California on September 17th. At the hearing, it became apparent that the Commission staff was lacking important information regarding the primary mission and program goals and objectives of the Board. Consequently, I have worked with Jay in assembling additional information and forwarding it to the Commission's staff for its review and consideration.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

As of October 1, 2004, storage in the major Upper Basin reservoirs decreased by 172,000 acre-feet and storage in the Lower Basin reservoirs decreased by 165,200 acre-feet during September. Total System active storage as of October 7th was 29.832

million acre-feet (maf) or 50 percent of capacity, which is 4.167 maf less than one year ago.

September releases from Hoover, Davis, and Parker Dams averaged 9,540, 10,980 and 8,820 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of October 2004 are 5,900, 8,300, and 7,900 cfs, respectively. The October releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir.

The final October 6, 2004, observed April through July 2004 unregulated inflow into Lake Powell was 3.640 maf, which is 46 percent of the 30-year average for the period 1961-1990. The final October 6, 2004, observed unregulated inflow into Lake Powell for the 2004 water year was 6.128 maf, or 51 percent of the 30-year average.

As of October 6th, 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 7.369 maf and is described as follows: Arizona, 2.806 maf; California, 4.272 maf; and Nevada, 0.291 maf. The Central Arizona Project (CAP) will divert 1.608 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 0.543 maf, which is 0.141 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 3.662 maf. This estimate by the Board staff is based on the collective use, through August 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

2005 Annual Operating Plan (AOP)

The Colorado River Management Work Group held its final consultation meeting on the 2005 Annual Operating Plan for the Colorado River System Reservoirs (2005 AOP) on September 24th in Las Vegas, Nevada. At the meeting, updates associated with basinwide hydrologic conditions and operations were provided, as well as a page-by-page review of the 2005 AOP. In the 2005 AOP, 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. Based upon concerns of the Upper Basin States, language was inserted into the 2005 AOP requesting the Secretary, in consultation with the Basin States' representatives, to review the 2005 annual release amount from Lake

Powell in April 2005 to determine if the runoff forecast warrants an adjustment to the release amount for water year 2005. Additionally, the Interim Surplus Guidelines requires the Secretary to undertake a “mid-year review” allowing for the revision of the 2005 AOP, as appropriate, based upon actual runoff conditions in the Basin. Any revision to the AOP may occur only after a reinitiation of the AOP consultation process as required by law.

Senator Wash Dam Safety Repairs

Reclamation recently awarded a contract to an Arizona construction firm for the construction of a berm to control seepage through the foundation of Senator Wash Dam. The new, 200 foot long, 45-foot high berm will be 30 feet thick at the bottom. This construction will permit greater reservoir management flexibility related to operations for conserving Colorado River water at Senator Wash Reservoir. Although the construction planning called for completion of the project by October 15th, I have been informed by Reclamation that the project has now been completed.

The Metropolitan Water District of Southern California’s Request for Recovery of Interstate Storage Credits in 2005

On September 2nd, The Metropolitan Water District of Southern California (MWD) requested that the Central Arizona Water Conservation District (CAWCD) make 40,000 acre-feet of Interstate Underground Storage Credits during calendar year 2005. Currently, MWD is requesting 4,000 acre-feet of the credit water in each month during 2005, with the exception of the months of June and July.

Proposed Storage and Interstate Release Agreement between The Metropolitan Water District of Southern California, Southern Nevada Water Authority, Colorado River Commission, and U.S. Bureau of Reclamation

The Southern Nevada Water Authority (SNWA) and The Metropolitan Water District of Southern California have developed a proposal to implement a Storage and Interstate Release Agreement (SIRA) regarding mainstream Colorado River water. The SIRA would permit Nevada and SNWA to make unused apportionment available to MWD in the short-term, and then provide a forbearance mechanism for Nevada and SNWA to recover that water from MWD during out years. The proposal lays out that the maximum amount of water that Nevada could call on in any given year is up to 30,000 acre-feet, unless the parties mutually agree to a larger amount. The concept was presented to MWD Directors at the October 12th meeting of the MWD Board. A copy of the staff report is included in the handout materials for your information.

Status of the Proposed Forbearance of Colorado River Water for 2004 by the Colorado River Indian Tribes

You may recall that earlier this year Reclamation had initiated a demonstration forbearance program to make mainstream water available to offset the quantity of water

currently released from Lake Mead to replace the water bypassed to the Cienega de Santa Clara. In June 2004, the Colorado River Indian Tribes (CRIT) submitted letters of proposal to Reclamation regarding the Tribe's potential participation in the demonstration program. After consultation with the State of Arizona and other junior priority entitlement holders within Arizona, Reclamation has determined that it will not be possible to accept any forbearance offers from Arizona water users during 2004. Reclamation remains optimistic that Arizona's concerns can be resolved so that the demonstration program can be initiated in calendar year 2005. A copy of Reclamation's written response to the CRIT is included in the Board folder for your information.

Reorganization of the United States' Section of the International Boundary and Water Commission

I received a letter on September 20th from the Commissioner of the U.S. Section of the International Boundary and Water Commission (IBWC), Arturo Duran, regarding proposed restructuring and reorganization of the U.S. Section of the IBWC. The purpose of the reorganization and restructuring is to improve the efficiency of communications and operations between the two countries. Additionally, the U.S. Section of the IBWC has revised its overall vision and mission statements. The modified mission statement revolves around the following key factors: (1) Boundary Preservation; (2) Water Quantity Operations; (3) Water Quality Improvement; (4) Diplomacy, Outreach, and Partnering; and (5) Strategic Management. A copy of Commissioner Duran's letter, the new vision and mission statement, and an organization chart for the U.S. Section of the IBWC is included in the Board folder.

Revision of Calendar Year 2004 Diversion Estimate for the Imperial Irrigation District

On September 23, 2004, Reclamation notified the Imperial Irrigation District (IID) that it had approved the proposed IID plan to conserve 18,900 acre-feet of water within the IID through extraordinary conservation practices. The conserved water is to be utilized to payback IID overruns that accrued in 2001 and 2002. Consequently, this proposed action will result in a revised estimate of diversion from the mainstream during the remainder of 2004. Reclamation has approved the revised diversion of 3,021,171 acre-feet during 2004 for the IID. A copy of Reclamation's letter and revised diversion and consumptive use worksheet is included in the Board folder for your information.

Revised Calendar Year 2004 Diversion Estimate for the Coachella Valley Water District

In a similar vein, the Coachella Valley Water District (CVWD) has submitted a proposed extraordinary water conservation plan to conserve 19,100 acre-feet of water to Reclamation. This conserved amount of water would repay overruns accrued during 2001 and 2002. Reclamation has approved a revised 2004 diversion estimate of 336,218 acre-feet for CVWD.

Basin States/Tribes Discussions

Status of the Technical Studies

On August 20th, the Basin States' representatives sent a letter to the Secretary of the Interior, Gale Norton, regarding the status of the Basin States/Reclamation Technical Studies looking at management of the reservoir system during extended droughts. The Basin States' letter highlights the potential role of Mexico in response to shortage conditions, should they occur. The technical studies, completed to date, indicate that Mexico would take pro-rata shortages similar to those taken by users within the United States. The states have requested that the Secretary provide her assessment of how this potential shortage condition would be dealt with. In the letter, the states further reiterated their commitment to continue to work with Reclamation and the Department in the development of guiding principles and proposed shortage criteria. A copy of the letter to Secretary Norton is included in the Board folder.

Meetings with USBR Commissioner Keys at NWR – November 9-12, 2004, San Diego, California

Included in the Board folder is a copy of a letter from Reclamation regarding the scheduling of a series of short meetings with Colorado River water users during the upcoming annual meeting of the National Water Resources Association (NWRA) in San Diego, California. The Commissioner's Office is willing to schedule 10-15 minute meetings with various stakeholder groups. These meetings should have been scheduled with Reclamation prior to October 8, 2004.

Restoration of CAP's Priority to Mainstream Colorado River Water

Included in the Board folder is a briefing paper taken from the webpage operated by the Central Arizona Water Conservation District (CAWCD) regarding the potential restoration of Arizona's priority to the mainstream water right held by CAWCD. As you may recall, the 1968 Colorado River Basin Project Act subordinated all of CAWCD's water right to all of California's basic apportionment of 4.4 million acre-feet. The CAWCD briefing paper indicates that it has been working with Arizona's congressional delegation to remove this junior priority status. However, because of the impending national elections, it is unlikely that this issue would be addressed until the 2005 session of Congress is convened.

Upper Basin States' Letters to Secretary Norton and Lower Basin States' Representatives

Included in the handout materials is a copy of two letters submitted by the Upper Basin States' representatives proposing the initiation of interstate discussions regarding "...fundamental issues associated with the allocations established under the Colorado River Compact, the Boulder Canyon Project Act as interpreted by the decree in *Arizona vs. California*, and the Mexican Treaty." According to the Upper Basin States' letter, the

fundamental issue turns on the interpretation of Article III(c) of the 1922 Colorado River Compact.

Article III(c) of the Compact addresses how the potential obligation to Mexico is met if there is a deficiency of water supply under the Compact's water allocation. The Compact states that if there is a deficiency of supply, the allocation to Mexico is borne equally by both Upper and Lower Basins. However, the Upper Basin States maintain that it is their "...consistent position that because no such deficiency has been shown to exist, the Upper Basin has no obligation in this regard."

The Upper Basin States are suggesting that a formal process must be initiated among the Seven Basin States to address these fundamental questions and issues. Additionally, the Upper Basin States believe that this is a state-to-state matter, and that all efforts should be made to avoid placing these questions in the federal courts, or being determined outright by the federal government's executive branch. Therefore the Upper Basin States are proposing a series of meetings to decide upon an appropriate process to address these issues.

Finally, the Upper Basin States also sent a letter to Secretary of the Interior, Gale Norton, informing the Department of these issues and the proposed process to develop a resolution. The Upper Basin States letter states that the Secretary's Office will be kept apprised of progress in the negotiations, and that the federal government will likely be brought into the discussions at some future point in time.

Colorado River Environmental Activities

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

First, the Administrative Final Draft of the LCR MSCP Habitat Conservation Plan (HCP), Biological Assessment (BA), and Environmental Impact Statement and Environmental Impact Report (EIS/EIR) have been completed and distributed. After a quick review, these documents will be finalized and submitted to the U.S. Fish and Wildlife Service (USFWS) to initiate its internal review leading to the issuance of the Biological Opinion and incidental take authorization permits for the non-federal participants. These documents include copies of all of the comments received on the review drafts of the documents, as well as responses to the comments and any appropriate changes to the final documents. The process is still on track to meet the deadline for completion of the Program in late-2004, leading to the execution of the Record of Decision by the Secretary of the Interior in early-2005.

Second, the federal and non-federal participants have been working diligently on the development of the LCR MSCP Implementing Agreement (IA). The IA describes the terms of the contract among all of the parties participating in the implementation of the long-term LCR MSCP. The IA integrates the terms and conditions of the HCP and the BA; addresses the terms under which future Section 7 consultations will occur; addresses the species covered by the LCR MSCP; describes the proposed adaptive management

program; memorializes the funding agreements among the parties; describes how changed and/or unforeseen circumstances are dealt with; describes the assurances and commitments to all of the parties; and describes remedies and enforcement. The IA must be completed in the near future in order to facilitate obtaining the approvals of Boards, Commissions, Districts, and so forth, over the next couple of months.

Third, 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 must be completed prior to the execution of the federal IA. Toward that end, I am working with the California LCR MSCP agencies in the preparation of a letter to CDFG Director, Ryan Brodrick, regarding the proposed process to expedite development and approval of the CESA 2081 permit package. A copy of the letter to CDFG and the attachment are included in the Board folder for your information.

Finally, the USFWS recently released the proposed critical habitat designation for the federally endangered Southwestern willow flycatcher. Portions of the Lower Colorado River Ecoregion within the planning area of the LCR MSCP have been included within the proposed critical habitat designation. However, the USFWS does state that once the LCR MSCP is approved and in place the designation of critical habitat within this region would be withdrawn. The draft critical habitat designation was published in the *Federal Register* on October 12, 2004, and is available for public review and comment.

Operation of Flaming Gorge Dam Draft Environmental Impact Statement

On September 1st, Reclamation released the draft environmental impact statement (EIS) associated with operations at Flaming Gorge Dam on the Green River. The draft EIS describes the effects of modifying the operation of Flaming Gorge Dam to assist in the recovery of four big river endangered fish (i.e., Bonytail, Colorado pikeminnow, Razorback sucker, and Humpback chub) and their critical habitat below the dam. The purpose of the proposed action is to operate the dam to protect and assist in the recovery of the native endangered fish populations, while continuing to maintain all authorized purposes of the Flaming Gorge Unit of the Colorado River Storage Project. The draft EIS describes and analyzes the potential effects of two alternatives, including the following:

- No Action Alternative – Operations under the conditions of the 1992 Biological Opinion would continue;
- Action Alternative – Operations would be in accordance with the flow and temperature regimes specified in the Upper Basin Recovery and Implementation Program for the Endangered Fish.

A series of public hearings are being held during the last half of October, and public comments on the draft EIS must be received by Reclamation on or before November 15, 2004.

Lower Colorado Water Supply Project (LCWSP)

Status of the Lower Colorado River Water Supply Project

Work is continuing on the Lower Colorado Water Supply Project (Project). As a consent item, I have included in the Board folder the sixth submittal of applications for Project water. I am requesting that the Board recommend to Reclamation, with the approval of Resolution 2004-2, that the following applicants are eligible to receive Project water and the City of Needles should offer a subcontract to each applicant.

For this sixth submittal, there are four applications requesting water. These four new applications are for newly subdivided parcels. The original land had been previously approved for a total of 4 acre-feet of Project water per year (CRB Document No. 366), i.e., one acre-foot for the current use and three acre-feet for future uses. After subdivision, the original landowner occupies the same residential house as her principal residence and had sold one subdivided parcel and keeps the remaining two parcels. A list of the number of the four parcels and the water requested is shown below:

<u>County</u>	<u>Number of Parcels</u>	<u>Current Use (Acre-feet/yr)</u>	<u>Future Use (Acre-feet/yr)</u>	<u>Total Request (Acre-feet/yr)</u>
San Bernardino	4	2	2	4

In total, for all six submittals, there are 541 applications requesting a total of 5,656 acre-feet of Project water annually. Of this amount, 515 acre-feet are being used annually by current users, and 5,141 acre-feet annually are being reserved for future use, including the 242 acre-feet per year the Board approved for the PG&E Topock Compressor Station contamination site (CRB Document No. 463) on July 13, 2004.

WATER QUALITY

Status of the Las Vegas Wash Perchlorate Remediation Effort

At the May 2004, Board meeting it was reported that there has been significant progress in perchlorate remediation efforts at Las Vegas Wash. Also, it was reported that Kerr-McGee’s new treatment system, Fluidized Bed Reactor (FBR), began operations in the start up mode in April of 2004. Since April, Kerr-McGee has been trying to optimize the performance of the FBR treatment system by increasing the flow of the system to full operational status. The flow to FBR is about 1,000 gallons-per-minute (gpm) and the perchlorate concentration to the FBR system is approximately 250 ppm. The effluent concentration has varied between non-detect to 20 ppb. The variation in the effluent

concentration has been due to influent quality and quantity fluctuations. As part of the optimization efforts, an equalization tank has been installed in order to have more consistent flow and concentration to the FBR system.

Since the operation of the new Kerr-McGee FBR system began, the perchlorate load to Las Vegas Wash continues to drop. According to Nevada Department of Environmental Protection, the perchlorate load to Las Vegas Wash prior to remediation was approximately 1,000 pounds per day, (1999). It was reduced to approximately 500 pounds per day after first remedial facilities were constructed and since operation of the FBR system the load has further dropped and is in the range of 120 to 130 pounds per day, as of September 2004. The perchlorate removal rate is approximately 1,810 pounds per day at this time. As of September 2004, approximately 1,370 tons of perchlorate has been removed from the environment.

The perchlorate concentration at the Willow Beach monitoring station has dropped to about 2 ppb as of September 2004. However, we may see higher concentrations later this year due to Lake Mead's turnover; but the concentration is not predicted to be higher than 6 ppb. You may recall that in January of this year the State Office of Environmental Health Hazard Assessment (OEHHA) set the perchlorate Public Health Goal (PHG) at 6 ppb.

The AMPAC plume is a deep plume and has not yet contributed to the contamination of Las Vegas Wash, until recently. The proposed remediation system for this deep plume is still in the design process. According to Nevada Department of Environmental Protection, the design process will be completed by the end of November 2004, and the first treatment system for the leading edge of the AMPAC plume will be operational by spring 2005.

Topock Gas Compressor Station Hexavalent Chromium-6 Contamination Site Status

The Arizona Department of Environmental Quality (ADEQ) in a letter dated September 9, 2004 to the California Regional Water Quality Control Board (RWQCB), has made comments on three orders issued by the RWQCB and specifically on the issuance of the Notice of Exemption (NOE) to CEQA. A summary of the ADEQ concerns include the following:

- Chromium 6 has been detected in water supply wells located in Arizona on the east side of the Colorado River and the chromium 6 plume may have reached Arizona. The chromium 6 plume has not yet been delineated on the east side of the Colorado River.
- The remediation activities have been conducted without the knowledge of the ADEQ, although public outreach efforts have been conducted by the PG&E in Arizona.

- The orders by RWQCB do not reflect the short-term nature of Interim Measure No. 3.
- The lack of a contingency plan in case the treatment/remediation fails.
- Injections to the aquifer should be closely monitored to ensure that it does not drive the chromium 6 plume further towards the Colorado River. Also, the receiving aquifer should be monitored to evaluate whether or not the reversal of the gradient is being achieved by the Interim Measure No. 3.
- The pumping capacity should be increased to ensure the reversal of the gradient and the treatment capacity should match the pumping capacity.
- ADEQ is concerned with the discharge to Colorado River and that there should be limit on the concentration of the chromium 6.
- The NPDES discharge limitations should also include the constituent selenium.

On this issue, MWD, in a letter dated September 14, 2004, to the RWQCB expressed its concern over direct discharge of the effluent to the Colorado River and suggested that other alternatives of discharge including injection to groundwater and disposal into evaporation ponds be considered.

Gerald R. Zimmerman
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