

Minutes of Special Meeting
COLORADO RIVER BOARD OF CALIFORNIA
Wednesday, December 15, 2004

A Meeting of the Colorado River Board of California (Board) was held in the Palace Ballroom 1, at Caesars Palace Hotel, 3570 Las Vegas Boulevard South, Las Vegas, Nevada, on December 15, 2004.

Board Members and Alternate Present

Lloyd W. Allen, Chairman
James H. Bond
Dana "Bart" Fisher, Jr.
John V. Foley
James B. McDaniel

John W. McFadden
Lester A. Snow, Director
Department of Water Resources

Board Members Absent

Leonard E. Robinson

Curt A. Taucher, Designee
Department of Fish and Game

Others Present

Steven B. Abbott
Robert G. Beeby
Peter Carlson
William I. DuBois
David Fogerson
P. Joseph Grindstaff
Elston K. Grubaugh
Mary Grubaugh
William J. Hasencamp
Timothy J. Henley
Gordon A. Hess
Andy G. Horne
Ronald E. Hull
Jeanine Jones
Jeffrey J. Kightlinger
Russell Kitahara
Brad Luckey
Le Val Lund
Carlos Madrid

Stella A. Mendoza
Gloria A. Rivera
Steven B. Robbins
Dan Robinson
Jesse P. Silva
Ed W. Smith
Mark Stuart
William H. Swan
James J. Taylor
Fred Thompson
Robert D. Thomson
Dennis B. Underwood
Bill D. Wright

J.C. Jay Chen
Christopher S. Harris
Gerald R. Zimmerman

Jay W. Malinowski

CALL TO ORDER

Chairman Allen, in the presence of a quorum, called the meeting to order at 3:08 p.m.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Mr. Zimmerman asked those in attendance if there was anyone who wished to address the Board on matters on the agenda or other matters that could be considered by the Colorado River Board. As the Board meeting was held in conjunction with the annual meeting of the Colorado River Water Users Association, several guests in the audience were acknowledged by various Board members.

ADMINISTRATION

Approval of Minutes

Mr. Zimmerman asked that the November 10th meeting minutes be approved.

MOTION: Upon the motion of Mr. Fisher, seconded by Mr. Foley, and unanimously carried, the Board approved the November 10th meeting minutes.

Schedule for meetings during Calendar Year 2005

Mr. Zimmerman reported that the schedule for 2005 Board meetings was included in the Board folder. Of note in the schedule are that for May the Board meeting would be held to coincide with the Association of California Water Agencies meeting in San Jose, and that the August meeting would be held on the 24th in conjunction with the Urban Water Institute Conference in San Diego. The September Board meeting would be cancelled. Mr. Zimmerman asked the Board to approve the meeting schedule for 2005. A request was made by Mr. Bond to move the time of the August Board meeting from 3 p.m. to 1 p.m. to avoid a conflict with a city council meeting.

MOTION: Upon the motion of Mr. Bond, seconded by Mr. Foley, and unanimously carried, the Board approved the Final meeting schedule for year 2005.

Resignation of Assistant Secretary Bennett Raley

Mr. Zimmerman reported that the Board folder included an article relating the resignation of Bennett Raley, the Assistant Secretary for Water and Science for the Department of the Interior. Mr. Raley is to return to private practice in Colorado and spend more time with his family.

Appointment of Paul Stein as Deputy Director of California Fish and Game

Mr. Zimmerman reported that Governor Schwarzenegger appointed Mr. Paul Stein as Deputy Director of the California Department of Fish and Game (CDFG). Prior to his appointment, Mr. Stein was a District Supervisor with Calaveras County.

AGENCY MANAGERS MEETING

Mr. Zimmerman reported that the Agency Managers had several conference calls relating to obtaining the California Endangered Species Act permit in conjunction with the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). The California Parties have submitted a Section 2081 application to CDFG. The application was submitted November 2nd, and a meeting with CDFG regarding the application was held November 10th. CDFG has suggested that portions of the application need further clarification. The California Parties provided the clarification and the application was resubmitted. Based upon this application, CDFG has prepared a draft 2081 permit that was shared with the California Parties the first week of December and a meeting was held Monday, December 13th. The meeting was constructive as the parties went through the permit and identified areas of concern. A redraft of the 2081 permit is planned for the first of January 2005. A meeting will be scheduled for January 20-21, 2005, where finalization of the 2081 permit is intended to occur.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

Mr. Harris reported that as of December 9th, 2004, the storage at Lake Powell is at 8.8 million acre-feet (maf) or at 38 percent of capacity. The elevation of Lake Powell is 3,566 feet. The storage at Lake Mead is slightly over 14.3 maf, or 52 percent of capacity. The elevation of Lake Mead is about 1,130 feet. Total System storage is about 30 maf or 50 percent of capacity. Last year at this time the total System storage was 33.1 maf or 56 percent of capacity.

Mr. Harris further reported that precipitation for the October 1st through November 4th to be 116 percent of normal and the snow pack water equivalent to be 114 percent of normal. The percentages are based on the SNOTEL water data collection system comprised of 116 sites in the Upper Colorado River Basin. The November inflow into Lake Powell was about 500,000 acre-feet, or 103 percent of average, while the forecast for December is expected to be about 400,000 acre-feet, or 92 percent of average.

Projected consumptive use, as estimated by Reclamation for calendar year 2004, is as follows: for the State of Nevada it is at 284,000 acre-feet, under its basic apportionment of 300,000 acre-feet; for the State of Arizona it is projected to be slightly below its basic apportionment of 2.8 maf; and the State of California is projected to consumptively use 4.3 maf, or just under its basic apportionment of 4.4 maf. For the Lower Division States, Reclamation is projecting 7.381 maf of consumptive use.

State and Local Water Reports

Mr. Stuart, of the California Department of Water Resources, reported that precipitation statewide for the water year was about 180 percent of normal. The Sacramento River Index Precipitation is slightly above normal, and Southern California, with the exception of Santa Barbara, is between two and three times normal. It is still too early in the year to know whether this will be a wetter than normal year.

Mr. Stuart further added that the State Water Project (SWP) storage in Lake Oroville is at 1.6 maf, or only 45 percent of normal and 460,000 acre feet less than last year. San Luis reservoir is about 50 percent capacity, or 600,000 acre-feet. The total SWP storage is about 53 percent of capacity, with storage about 480,000 acre-feet less than this time last year. SWP deliveries are forecasted to be 40 percent of SWP contractor's entitlements. It is too early in the water year for changes not to be expected.

Mr. Foley reported that the three main surface storage reservoirs of the Diamond Valley Lake, Lake Mathews and Lake Skinner are at about 76 percent capacity, or about 783,000 acre-feet. Diamond Valley Lake has 574,000 acre-feet in storage, or 72 percent of capacity. Lake Mathews has 171,000 acre-feet in storage, or 94 percent of capacity, Lake Skinner has 38,000 acre-feet in storage, or 86 percent of capacity.

Mr. McDaniel reported that the Snow Pack in the Eastern Sierra's is at 17.2 inches of water content, which is about 39 percent of the April 1st normal and 120 percent of normal for this time of year.

Arizona v. California

Mr. Zimmerman reported that Mr. William Abbey of the Attorney General's Office was unable to attend this meeting; however, his message conveyed good news to be shared with the Board. Mr. Abbey reported that all of the issues between the lawyers representing the parties have been resolved. The attorneys have negotiated a tentative settlement. This agreement is to be taken to each of the Boards for their approval. The Tribal Council will also be voting to approve the agreement and the Solicitor's Office will also be considering the agreement.

There was some discussion regarding the issue of the boundary of the reservation and its history as the Colorado River changed its course and as various federal administrations have interpreted the treaties with the Tribe. In 1981, the Secretary of the Interior implemented a decision that set the boundary at the larger area, the original 1884 boundary, but excluded certain areas; namely, the All-American Canal and the Bard Unit. The tentative settlement, between MWD, Coachella, the U. S., and the Tribe, proposes to accept the 1981 boundary designation. The State of California recognizes that boundary only for water rights purposes. A Tribe can use water in that area and the State of California will not object, but the State reserves its rights to challenge the boundaries for other purposes, such as the State's ability and jurisdiction to regulate criminal, civil and public health, safety, and welfare matters.

Mr. Steve Abbot, attorney for Coachella Valley Water District (CVWD), added that the CVWD Board of Directors approved the settlement Tuesday, December 14th, and the settlement is to be presented to the Quechan Tribal Council on December 15th. MWD will have this item

on its agenda for action in January 2005.

Colorado River Operations

Rain in the Lower Colorado Basin forces cut backs in releases from Davis and Parker Dams

Mr. Zimmerman reported that included in the board folder is a news release describing Reclamation's efforts to conserve water in the Lower Colorado River Basin by reducing releases from Parker and Davis Dams. Rains on the Lower Basin have resulted in reduced water orders from Arizona and Southern California Colorado River water users. In October, similar efforts resulted in water exchanges that ultimately resulted in water being delivered to the Salton Sea as part of IID's conservation efforts to provide mitigation water to Salton Sea.

2005 Annual Operating Plan

Mr. Zimmerman reported that the final consultation meeting for the 2005 Annual Operating Plan for the Colorado River System Reservoirs (2005 AOP) was held on September 24th. On November 19th, Secretary Norton signed the 2005 AOP and sent it to the Governors of the seven Colorado River Basin states. The 2005 AOP Secretarial determinations include: Glen Canyon releases to be at the minimum objective release of 8.23 maf; Hoover Dam will be operated under a normal condition, i.e., 7.5 maf of water would be apportioned for consumptive use in the Lower Basin; Mexico would be able to schedule the delivery of 1.5 maf of water in calendar year 2005. In addition, the 2005 AOP contains specific provisions for a mid-year review of the releases at both Glen Canyon and Hoover Dams. A mid-year review could allow releases to be increased at Hoover Dam if hydrologic and water supply conditions increase reservoir storage levels in the Basin or decreased at Glen Canyon Dam if the drought continued.

Status of the Five-Year Review of the Long-Range Operating Criteria

Mr. Zimmerman reported that copies of the Board's comment letter and Reclamation's public meeting announcement regarding the Five-Year Review of the Long-Range Operating Criteria for the Colorado River System Reservoirs (LROC) is included in the Board folder. Pursuant to Reclamation's *Federal Register* notice, the Board began its review of the LROC in January 2002. The Board's comment letter regarding the need to revise the LROC was sent to Reclamation on March 29, 2002. During the comment period, Reclamation received 17 comment letters on the need or necessity to revise the LROC. From April 2002, until November 2004, Reclamation reviewed the comments that were received and now has proposed changes to the LROC. The changes are mainly ministerial, and essentially bring the LROC up to date with the present diversion facilities along the River. The Board does not object to the changes proposed by Reclamation and recommend that Reclamation concludes the present five-year review.

There was some discussion regarding management practices that have been implemented to reduce the unintended excess flows to Mexico and how these improvements have reduced such flows from approximately 300,000 acre-feet per year in the past to about 100,000 acre-feet per year now and there are additional opportunities that may reduce them even further.

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

Mr. Zimmerman reported that Reclamation recently prepared a draft report describing options for improving Decree Accounting within the Yuma Area. Current Decree Accounting in the region has been problematic. The draft report lists three options: the current methodology, the mainstream option, and the Arizona preferred option. Currently, there is some double accounting within the Yuma Area and there are a number of unauthorized users without a diversion contract. There are other issues regarding inaccuracies associated with the present accounting method. Of the three options, Board staff recommends the mainstream option. The mainstream option includes a detailed accounting of water use, including surface water and groundwater diversions and returns. The mainstream option includes development of a water balance and would evaluate the aquifer and water use and would include the amount of water recharged in the area. This method would be controversial because a number of water users in the area don't have Section 5 contracts with the Secretary and Arizona would be required to bring these unauthorized users under contract.

Mr. Zimmerman suggested that if the mainstream option is not chosen, then a number of safeguards should be implemented. One issue is the protection of the Minute 242 well field. The well field provides the opportunity to pump groundwater and deliver it as part of the Mexican Treaty obligation at the Southerly International Boundary. The protection should address water quality as well as quantity. Another safeguard would be the implementation of an extensive groundwater monitoring program to determine the status of the aquifer in the region. For example, is more recharge occurring or is the aquifer being degraded from insufficient recharge? Within the current Decree Accounting for the Yuma Area there is a calculation for "Unmeasured Return Flow Credit" for existing diverters. Does the current calculation correctly reflect the water use and return flow in the area under today's conditions? Could a different method more accurately determine the unmeasured return flow? Also, Reclamation should continue to strictly enforce its Part 417, water conservation planning requirements within the area, to insure that waste is not occurring. Finally, unauthorized diverters, not just in the Yuma Area, but also within the entire Lower Colorado River Basin, should be eliminated.

Reclamation's Letter to Metropolitan Water District of Southern California (MWD) and the International Boundary and Water Commission (IBWC) regarding the Approval of Revised Diversion Estimates for MWD and Water Deliveries to Mexico for the Rest of Calendar Year 2004

Mr. Zimmerman reported that both the Central Arizona Project (CAP) and MWD are revising their 2004 diversion and consumptive use totals for calendar year 2004. Based on latest estimates, MWD will be able to divert about 52,180 acre-feet more from the Colorado River mainstream, bringing its total use this year to be an estimated 707,000 acre-feet. Within Arizona, CAP has indicated that it plans to divert any apportioned, but unused, water within Arizona, thereby diverting its full entitlement. However, if CAP diverts less than its entitlement, it is requesting that the water remain in Colorado River reservoir System storage.

Revised Schedule of Calendar Year 2004 Water Deliveries to Mexico

Mr. Zimmerman reported that a letter of a request from Mexico to change its delivery of 186 acre-feet at the Northerly International Boundary is included in the Board folder. This amount would be transported through the MWD's Colorado River Aqueduct and the San Diego Water County Authority's delivery system to the City of Tijuana, Baja California del Norte.

Southern Nevada Water Authority's (SNWA) Storage of Unused Apportionment Water in Arizona and California

Mr. Zimmerman reported that SNWA has entered into an agreement with MWD to store 10,000 acre-feet of unused apportionment within the MWD's service area. The 10,000 acre-feet will then be made available to SNWA in a subsequent year. This concept was discussed at the last Board meeting. SNWA has entered into a similar arrangement with the State of Arizona.

Mr. Zimmerman added that, SNWA has agreed to pay \$330 million to the State of Arizona to bank 1.25 maf that can be drawn upon by SNWA in future years. SNWA has agreed to pay \$100 million in 2005, and \$23 million per year for ten years beginning in 2009. In addition to the \$330 million, SNWA has agreed to support Arizona's effort to change the junior status of CAP's water right.

Basin States Discussion

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

Mr. Zimmerman reported that the letter sent on behalf of the Lower Basin States, signed by Herb Guenther, Director of the Arizona Department of Water Resources, is included in the Board folder. The letter requested a meeting Friday, December 17, 2004, with representatives of the Upper Basin States to further clarify the scope and nature of Upper Basin's concerns.

There were some discussions regarding preparations, logistics of attendance and coordination to ensure sufficient representation at the Friday meeting.

Colorado River Environmental Activities

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

Mr. Harris reported that the final LCR MSCP documents have been completed and are being distributed. Reclamation has given a final set to the Environmental Protection Agency (EPA) and the U.S. Fish and Wildlife Service (USFWS). The USFWS is currently preparing the Biological Opinion and the Section 10 Incidental Take Authorization permit for the non-federal participants.

Mr. Harris mentioned that all of the comments from the public review and comment period, as well as the public hearings during last summer, were evaluated and included in the distribution of the final documents.

Mr. Harris added that the implementation and funding management agreements are being finalized for distribution and review to all of the permit applicants. The Record of Decision (ROD) is likely to be signed on March 2005. Coordinating the schedule with the various Boards and Commissions in the three states and getting the necessary approvals on the various documents will be conducted through February and early March 2005.

Mr. Harris added that the *Federal Register* notice is scheduled to publish on December 17, 2004. The USFWS is to circulate the Draft Section 10 Permit for review on December 20, 2004. The three Lower Basin States are to complete interstate funding negotiations by December 23, 2004. Within California, the goal is to complete the intrastate negotiations between the water and power and other participating entities by January 31, 2005. Also, the California Agencies are hoping to complete the California Endangered Species Act permit terms and conditions by January 18, 2005. The Agencies are working to finalize the California funding agreements by January 21, 2005. It is anticipated that MWD will certify the EIR on February 7, 2005, followed by certification by the other California agencies between February 8, 2005 and the end of February 2005. A memorandum of understanding between the CDFG, Reclamation, and the California Agencies on how the program will be implemented over the 50-year period is being drafted so that CDFG will have the necessary assurances to issue the 2081 permit. A formal signing ceremony for all of the documents, agreements and permits is tentatively scheduled for March 14, 2005.

Status of California Endangered Species Act (CESA) Compliance Package for LCR MSCP

Mr. Harris reported that there was a meeting on December 13, 2004 in Ontario, California with the CDFG, and representatives of the California Agencies to discuss the 2081 permit terms and conditions. There are areas of agreement and others where there is some divergence from the CDFG position. Representatives of CDFG and the California Agencies have agreed to work together to craft acceptable language for the next draft of the document.

Status of Glen Canyon Dam Adaptive Management Program (GCDAMP) Work Group Activities

Mr. Harris reported that Reclamation performed the experimental release flows from Glen Canyon Dam on November 21, 2004. These flows were of a shorter duration and magnitude from those under Secretary Babbitt. The November 21, 2004, flows reached 41,000 cfs for about two and a half days. The higher flows were intended to move sediment downstream from Glen Canyon and restore sandbars along the river as well as enhance existing backwater habitats for native fish populations in the Grand Canyon. With respect to the flow experiment there are several comment letters included in the Board folder. Recent data collection qualitatively supports that sandbars have been re-formed and some habitat enhancements appear to have been made. Several items relating to the Glen Canyon Dam experimental release program are included in the Board folder.

Congressional Conference Report 108-357 Regarding Reclamation's Construction and Operation of the Yuma Desalting Plant

Mr. Peter Carlson, of Will & Carlson, Inc., discussed federal legislative activities of the 108th Congress related to water resources, and those that could affect activities along the

Colorado River. He also discussed the Omnibus Appropriations Bill that was signed by the President last week. He indicated that there was no direct mention in the bill about operation of the Yuma Desalting Plant, but in one of the conference reports, Reclamation was directed to prepare a status report by the second quarter of 2005.

Salton Sea Authority's Restoration Update on the Salton Sea

Mr. Zimmerman reported that a brochure prepared by the Salton Sea Authority describes its efforts to advance the Authority's preferred project alternative was included in the Board folder.

Lower Colorado Water Supply Project

Mr. Zimmerman reported that contracts are continuing to be recommended for the Lower Colorado Water Supply Project. The project makes water available to all non-agricultural water uses, within the Accounting Surface as designated by Reclamation, to conform with the U.S. Supreme Court Decree in *Arizona v. California*. As of December 2005, there are 474 identified applicants for 1,829 acre-feet of water. Of that amount, 479 acre-feet are for current use and 1,350 acre-feet are for future use. Of the 479 acre-feet of water for current use, 344 acre-feet or about 73 percent are under contracts that have been executed.

Mr. Zimmerman added that work is proceeding on the advance delivery concept. There will be a meeting with the City of Needles Council, and the Public Utilities Board on February 22, 2005, to continue to work out the details for implementation of this initiative.

WATER QUALITY

Notice of Availability of Draft EIS for Remedial Action of the Moab, Utah, Uranium Mill Tailings Site

Mr. Zimmerman reported that the U.S. Department of Energy (DOE) has released a Draft EIS that deals with the cleanup of the surface contamination as well as implementation of a groundwater mitigation strategy. The Draft EIS contains both on-site and off-site remediation and disposal alternatives involving surface materials and groundwater contamination. When the Draft EIS is obtained, comments will be prepared and brought to the Board for consideration and approval. In the past, the Board's position has been that the mine tailings should be removed and disposed of off-site. As long as the mine tailings are adjacent to the Colorado River, there is a possibility that contamination could eventually reach the River. During the week of January 24, 2005, public hearings are scheduled throughout the Basin. Comments on the draft EIS are due by February 18, 2005. It is anticipated that discussion of this item will continue at the January and February Board meetings.

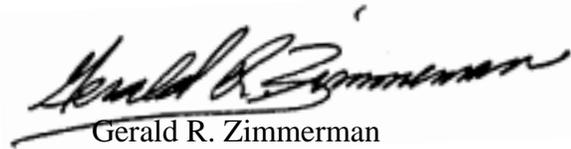
OTHER BUSINESS

Next Board Meeting

Chairman Allen announced that the next meeting of the Colorado River Board will be held on Wednesday, January 12, 2005, at the Ontario Airport Marriott Hotel, 2200 East Holt Boulevard, Ontario, California, at 10:00 a.m.

There being no further items to be brought before the Board, Mr. Fisher moved that the meeting be adjourned.

MOTION: Upon the motion of Mr. Fisher, seconded by Mr. McFadden, and unanimously carried, the meeting was adjourned at 4:31 p.m. on December 15, 2004.

A handwritten signature in black ink, appearing to read "Gerald R. Zimmerman", is written over a horizontal line. The signature is cursive and somewhat stylized.

Gerald R. Zimmerman
Executive Director