

Minutes of Regular Meeting
COLORADO RIVER BOARD OF CALIFORNIA
Wednesday, November 10, 2004

A Meeting of the Colorado River Board of California (Board) was held in Ballroom 4, at the Ontario Airport Marriott Hotel, 2200 East Holt Boulevard, Ontario, California, on November 10, 2004.

Board Members and Alternate Present

Lloyd W. Allen, Chairman
Harold W. Ball
Dana "Bart" Fisher, Jr.
John V. Foley
Gerald A. Gewe

John W. McFadden

Jeanine Jones, Designee
Department of Water Resources

Board Members Absent

James H. Bond
Leonard E. Robinson

Curt A. Taucher, Designee
Department of Fish and Game

Others Present

Steve Day
William I. DuBois
Elston K. Grubaugh
William J. Hasencamp
Jeff Kightlinger
Rudy Maldonado
Jay W. Malinowski
Jan P. Matusak
Dan Parks
David R. Pettijohn
Ed W. Smith
Mark Stuart

William H. Swan
Steven B. Robbins
Joseph Vanderhorst
Loralee (Lee) Willer
Bill D. Wright

William S. Abbey
Abbas Amir-Teymoori
J.C. Jay Chen
Christopher S. Harris
Gerald R. Zimmerman

CALL TO ORDER

Chairman Allen called the meeting to order at 10:07 a.m. and announced the presence of a quorum.

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. There being no response, Chairman Allen moved to the next item.

ADMINISTRATION

Appointment

Chairman Allen announced that Mr. John Menvielle will be joining the Imperial Irrigation District Board. Mr. John Menvielle is from one of the early farming families in the Imperial Valley. He will be officially starting with the IID Board on December 5, 2004. He is welcomed as a member of the IID Board.

Approval of Minutes

Mr. Zimmerman asked that the August 25th meeting minutes be approved.

Motion: Upon the motion of Mr. Fisher, seconded by Mr. Ball, and unanimously carried, the Board approved the August 25th meeting minutes.

Mr. Zimmerman also asked that the October 13th meeting minutes be approved.

Motion: Upon the motion of Ms. Jones, seconded by Mr. Foley, and unanimously carried, the Board approved the October 13th meeting minutes

California Performance Review

Mr. Zimmerman reported that included in the Board folder is a summary of the final report from the California Performance Review Commission concerning the Colorado River Board. There were 11 comments, where 10 of them were in support of the Board and one was neutral. No comments supported the recommendation of the Commission.

AGENCY MANAGERS MEETING

Mr. Zimmerman reported that the Agency Managers had a conference call on the 27th of October. The primary purpose of the conference call was to discuss compliance of the Lower Colorado River Multi-Species Conservation Program (LCR MSCP) with the California Endangered Species Act (CESA). Meetings were scheduled with the California Department of Fish and Game (CDFG) to begin the process of insuring CESA compliance. In pursuit of compliance, the California parties have submitted a draft Section 2081 application to CDFG. CDFG is currently reviewing the application. The Board will be working closely with CDFG to ensure that environmental compliance related to CESA is completed concurrently with the federal Endangered Species Act (ESA) compliance for the LCR MSCP.

Representatives from each of the California parties are scheduled to attend meetings with CDFG. The purpose of the meetings is to develop a CSEA Section 2081 compliance package that is compatible with the federal ESA Section 10 HCP.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

Mr. Harris reported that as of November 4th, the storage at Lake Powell is at 9.15 million acre-feet (maf). The storage at Lake Powell is currently at 38 percent of capacity. The storage at Lake Mead is slightly over 14 maf or 51 percent of capacity. Total System storage is about 29.88 maf or 50 percent of capacity. Last year at this time the total System storage was 56 percent of capacity, nearly 4 maf in storage less than last year.

Mr. Harris further reported that early storms have cycled through the Upper Basin causing precipitation and snow deposition for the 2005 water year to be 141 percent of normal precipitation and the snow pack to be 151 percent of normal.

Projected consumptive use, as estimated by Reclamation, for the State of Nevada is at 292,000 acre-feet, just under its apportionment of 300,000 acre-feet; for the State of Arizona its projected consumptive use is slightly below its basic apportionment of 2.8 maf; and the State of California presently is projected by the Reclamation to consumptively use 4.319 maf, just under its basic apportionment of 4.4 maf. For the Lower Division states, Reclamation is predicting 7.393 maf, however, as the year draws to a close, the consumptive use will probably be closer to last years amount.

State and Local Water Reports

Mr. Stuart reported that precipitation for the first month of the water year was 1,572 percent of normal. It was the second wettest October on record. State Water Project deliveries are about 200,000 acre-feet ahead of schedule.

Ms. Jones added that precipitation was heavy in Sacramento as she left this morning for the Board meeting.

Mr. Foley reported that as of November 5th, the combined storage in Diamond Valley, Lake Mathews and Lake Skinner reservoirs was 700,000 acre-feet, or 68 percent of capacity. Diamond Valley reservoir held 503,000 acre-feet or 63 percent of capacity; Lake Mathews held 161,000 acre-feet or 88 percent of capacity; and Lake Skinner held 36,000 acre-feet or 82 percent of capacity.

Chairman Allen asked Mr. Elston Grubaugh, Assistant General Manager of the Imperial Irrigation District (IID), to share with the Board how IID was able to make use of excess flows along the Colorado River. Mr. Grubaugh reported that there were a couple rainstorms on the Lower Colorado River below Lake Mead. This made excess water available. Rather than let the excess water flow down river, Reclamation had contacted several diverters to offer the excess

flows for their use. IID was originally asked if they could take 750 cubic feet per second (cfs) for a period of seven hours. The time period was extended to a day, which is equivalent to 3,500 acre-feet, and then the time was extended to seven days. This water was delivered to the Salton Sea and will be credited as Salton Sea mitigation water next year. Thus, the water to be developed by the following program for next year will be stored in Lake Mead and used to payback the inadvertent overruns from 2001 and 2002.

Mr. Grubaugh added that receiving the excess flows through the IID delivery system gave us a few lessons in handling excess flows. There were some flooding issues and we discovered where areas of restriction in the system are located.

Mr. Gewe reported that precipitation on the Eastern Sierra is well above normal. It could be the start of a very wet year, but not guaranteed. Last year by January, the precipitation was also above normal, but later proved to be a less than normal year overall. It is still too early to predict the precipitation on the Eastern Sierra's for the rest of the water year.

Arizona v. California

Mr. Abbey of the Attorney General's Office reported that while the issue of the Quechan Tribe's claim to additional water rights has been settled, the issue concerning the Tribe's demand that the State of California recognize what the Tribe contends should be the boundaries of its reservation within California is still in dispute. California's position is that this case is, first and foremost, a water rights case; the boundary of the reservation comes into play only as a basis for determining those water rights at trial, since those water rights are tied to the land. Thus, since the water rights issue has been settled, there is no need to deal further with the boundary issue. Moreover, California is concerned that by recognizing a reservation boundary for all purposes, the state would lose jurisdiction to enforce its health, safety and environmental laws on reservation land.

All parties appeared at a status conference before the Special Master in Chicago on November 8th. The Special Master set a firm trial date of April 25, 2005. Negotiations are continuing.

Colorado River Operations

2005 Annual Operating Plan (AOP)

Mr. Zimmerman reported that the final 2005 AOP for the Colorado River System Reservoirs is in Washington, D.C. and is being reviewed by Secretary Norton prior to her signature. It is expected to be signed and then be sent to each of the governors of the Basin States.

Water Order Revisions and Reclamation's Policy Adjustments

Mr. Zimmerman reported that the early rains had assisted in filling the needs of some Colorado River users and thus they rejected water that would have otherwise been accepted. This caused excess water on the Colorado River that could then be put to use by other diverters.

Reclamation is considering establishing a new policy that would allow junior users to divert water that is projected not to be used within the State's allocation. Reclamation's interest and intent is to have the full 7.5 maf Lower Basin apportionment used this year. Thus, Reclamation will allow the junior right holders to divert water that isn't being used or projected to be used by the senior diverters. In return, Reclamation wants a commitment from those junior users that either they would reduce their use at the end of the year, if the senior right holder's use increases or to repay it under the inadvertent overrun and payback policy.

Based upon this new policy established by Reclamation, both MWD and Central Arizona Water Conservation District (CAWCD) have increased their diversions this year. MWD is now able to divert an additional 109,563 acre-feet, which brings MWD's expected annual use to about 655,000 acre-feet. CAWCD committed to divert an additional 38,000 acre-feet for use within the District, as well as divert, 10,000 acre-feet for Nevada for banking in the Arizona Water Bank. CAWCD's estimated 2004 use would then be 1.643 maf.

Recent News Articles:

Mr. Zimmerman mentioned there was an article included as a handout, regarding Commissioner of Reclamation, John Keys, visit to IID announcing a grant to IID under the Water 2025 Challenge Grant Award. The grant is to provide additional measuring stations that are expected to aid in the conservation of about 35,000 acre-feet annually. This will be accomplished by measuring more accurately water flows at four locations along the All-American Canal.

Mr. Zimmerman added that another article included in the Board folder, from the "Salt Lake Tribune" relates to an effort by several environmental groups to rename Lake Powell. The Board had provided comments to the U.S. Board of Geologic Names opposing the renaming of Lake Powell. As mentioned in the article, the U.S. Board of Geologic Names received an unprecedented amount of public opposition to changing the name of Lake Powell to Glen Canyon Reservoir, thus, it is anticipated that the U.S. Board of Geologic Names will not rename Lake Powell.

Another article included in the Board folder from the "New York Times" entitled, "The Drought Unearths Buried Treasures" relates to Lake Powell and the Upper Basin Reservoirs. The article reports that with Lake Powell being at 38 percent of capacity, there are a number of canyons that have opened up that haven't been exposed since the filling of Lake Powell. There is interest in reporting what is viewable now that wasn't reported before Lake Powell was filled.

Yuma Area Article V Decree Accounting Options

Mr. Zimmerman brought to the Board's attention the draft paper outlining three options for water use accounting, pursuant to Article V of the 1964 Supreme Court Decree in *Arizona v. California*, in the Yuma area located in Southwestern Arizona. This area lies between the Northerly International Boundary (NIB) and the Southerly International Boundary (SIB) and is associated with the Limitrophe Section of the Colorado River and Yuma Valley. The decree accounting in this area is more difficult, in that it responds more like a delta area than a riverine

system. Most of the surface water in the Yuma area, after recharging the groundwater basins, does not reach the Colorado River. Reclamation is considering three options to accurately tabulate the decree accounting in this area: the Current Method, the Mainstream Water Option preferred by Reclamation staff, and the Arizona Preferred Option.

The Current Method does assume return flow to the mainstream; however, with this method there is some double accounting associated with groundwater pumping. The Mainstream Water Option addresses double accounting by looking at all of the diversions in an area, both surface and groundwater. Groundwater pumping of return flow from an upstream diverter would be ascribed a portion of the water pumped according to the location of the well in relation to the Colorado River. Groundwater monitoring would be implemented to account more accurately the amount of Colorado River water being used. This method would be data-intensive and involve pumpers that presently do not have contracts; i.e. unauthorized users. This would require an extensive program getting the unauthorized users to enter into contracts with Reclamation. Such an effort would be controversial and require a number of years to accomplish, but it would be the most accurate in terms of water management and Decree Accounting. The preferred method by Arizona is similar with the Mainstream Option. The main difference is that there wouldn't be utilization of annual checks for groundwater basin monitoring and there wouldn't be an assignment of unmeasured return flow credits for groundwater pumpers that are between the NIB and SIB.

The Board is currently looking at all three of those methods and plans to provide Reclamation with comments related to the Decree Accounting and how it should be accomplished within the Yuma area. More monitoring of the groundwater basin needs to be done and there need to be safeguards implemented within the area to provide protection of the existing Minute 242 well field, which provides a source of supply for the delivery of water at the SIB.

Sixth Review of the Long-Range Operating Criteria

Mr. Zimmerman reported that in the handout material is a Notice of a Public Hearing in Henderson, Nevada, on November 19th, beginning at 9:00 a. m., on the Sixth Annual Review of the Long-Range Operating Criteria for the Colorado River System Reservoirs. Sixteen entities, including the Board, had provided comments during the initial review processes. The Board's comments were dated March 29, 2002. Following receipt of those comments, Reclamation has decided to hold a hearing to address several proposed non-substantive changes. The comment period for the Reclamation's recommended changes is by December 6th, 2004. The seventh review of the Long-Range Operating Criteria will begin after January 1st, 2005.

Basin States Discussion

Technical Committee Meeting

Mr. Zimmerman reported that the Technical Committee held a meeting on November 1st. Reclamation's staff provided a comparison of model studies completed by Reclamation's staff and modeling studies completed by Arizona Department of Water Resources (ADWR). It was generally accepted that Reclamation's Colorado River Simulation System (CRSS) and Arizona's

model were producing the same answers and could be used to look at the conjunctive operations for both Lake Mead and Lake Powell.

The primary focus of the meeting was to address the meaning and potential policies regarding extraordinary drought, and how is it addressed in the 1944 Mexican Water Treaty. Extraordinary Drought is defined as a reduction from the normal use that could occur within the Upper Basin or the Lower Basin, either together or independently, and extending for a period of more than a year. The definition needs to be fully identified and then begin dialogue with Mexico on how it will be handled.

During discussions at the meeting related to the Upper Basin's letter dated October 7, 2004, which was distributed at the last Board meeting, the Upper Basin is requesting the Lower Basin to consider the interpretation of the 1922 Colorado River Compact and specifically, the operation of the reservoir system under Article III(c) of the Compact. Article III(c) deals with the United States meeting its delivery obligations to Mexico and when a deficiency exists, under the meaning of deficiency pursuant to the Colorado River Compact.

The Upper Basin States, in their letter, concluded that a deficiency pursuant to the terms of the Colorado River Compact does not exist because Lower Basin are consumptively using more than 8.5 maf. As the Upper Basin states have requested as response to their letter from the Lower Basin states, a draft response letter from the three Lower Basin states has been prepared and is included in the handout material. Within this draft response letter, the Lower Basin states are proposing a meeting of the states on December 17th to obtain further clarification of the scope and nature of the concerns of the Upper Basin. The response letter would be signed by Mr. Herb Guenther, Director of the Arizona Department of Water Resources, on behalf of the Lower Basin states.

Notification of Secretary of Basin States Meeting

Mr. Zimmerman, also mentioned that included in the handout material is a draft letter that is to be sent to Secretary Norton advising her that the Lower Basin States are planning to meet with the Upper Basin States to hear their concerns.

Colorado River Water Conservation District Resolution

In addition, included in the Board folder is a resolution passed by the Colorado River Water Conservation District in Glenwood Springs, Colorado, urging the Upper Basin States to take what ever actions are necessary to conserve storage in the Upper Basin Reservoirs and release the absolute minimum from Lake Powell for downstream obligations.

Request of Funding for Conservation Programs along Colorado River

Mr. Zimmerman reported that included in the handout material is a letter requesting support for funding construction of off-stream storage near the All-American Canal and removal of sediment from the Colorado River channel behind Laguna Dam to increase its regulatory storage capability. These conservation facilities would assist in reducing the quantity of water, especially during storm events, that flows to Mexico, which is not counted as part of the United

States delivery of water to Mexico under the 1944 Mexican Water Treaty. This letter is to be sent from the Basin States representatives to Basin States' congressional delegation requesting that additional funding be provided in 2005 for these projects. Currently, \$1.6 million has been provided for the All-American Canal Off-Stream Storage Project, but an additional \$2.8 million is needed. Also requested is an additional \$0.5 million to dredge behind Laguna Dam. The dredging could also contribute to the Multi-Species Conservation Program in that aquatic and marsh habitat could be restored in conjunction with the regulatory storage

Mr. Zimmerman added that, in addition to transmitting the letter to the congressional delegation from the Basin states, a second letter would be sent to the chairman and minority ranking of the Energy and Water Development Subcommittees. He requested the Board to grant him authorization to sign the letter on behalf of the Board.

MOTION: Upon the motion of Mr. Ball, seconded by Mr. Foley, and unanimously carried, the Board granted authorization to Mr. Zimmerman to sign the letter to the Colorado River Basin states congressional delegation.

Colorado River Environmental Activities

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

Mr. Harris reported that the LCR MSCP participants had labored diligently over the past three weeks with Reclamation staff in Boulder City, Nevada, to get the final Habitat Conservation Plan, the Biological Assessment, and the EIS/EIR ready for distribution to the U.S. Fish and Wildlife Service by late November to early December 2004.

In addition, the legal staffs of the Board member agencies have worked concurrently, on the final Drafts of the implementation and funding and management agreements. These agreements articulate the contractual obligations of the three Lower Basin states, the federal government, and LCR MSCP participants with respect to implementation of the program, how the program will be funded, as well as, the course of action to be followed in the case of disagreements or disputes. The Program is still on schedule for a Record of Decision to be executed by Secretary Norton in January 2005. This could lead to the implementation and funding management agreements being executed concurrently, or shortly thereafter; thereby leading to the U.S. Fish and Wildlife Service issuing Incidental Take Permits to the Board member agencies and California Department of Fish and Game (CDFG) issuing Incidental Take Permits to the California participating agencies.

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

Mr. Harris further added that, with respect to the CESA compliance elements, the California agencies have prepared a draft CESA 2081 Incidental Take Permit application. on behalf of the California agencies to be submitted to CDFG.

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

Mr. Harris reported that the GCDAMP work group met in late October in Phoenix. There were a series of reports, but of interest was an update by Reclamation on the basinwide

hydrology conditions. Due to late fall precipitation events in the Four Corners Region, there is a nominal sediment budget available in the upper reaches of the Grand Canyon that will permit Reclamation to release experimental flows in late November to mobilize the sediment downstream and place it upon the sand bars. Reclamation has performed an Environmental Assessment and obtained approval for the test flow.

Lower Colorado Water Supply Project

Mr. Zimmerman reported that work is continuing on the Lower Colorado Water Supply Project. Applications are still being received and it is anticipated that several applications will be submitted to the Board for its consideration at the January 2005 meeting.

WATER QUALITY

Colorado River Salinity Control Forum Work Group, Forum and Advisory Council Meetings

Mr. Zimmerman reported that the Colorado Basin Salinity Control Forum Advisory Council and Work Group had meetings on October 18th through the 21st in Yuma, Arizona. There was a tour of the Yuma Desalting Plant (YDP). Located next to the YDP is a research facility where a number of activities are continuing at the facility; ranging from membrane experimentation, and identifying less costly means of desalting water. Reclamation staff talked about the continuing dual track for operating the Yuma Desalting Plant and consideration of options to replace the flow in the Bypass Drain. Given Arizona's recent comment letter, and Reclamation not being able to enter into forbearance agreements with any of the Arizona parties, the dual track concept may be problematic.

Mr. Zimmerman further added that discussions were at both meetings regarding Reclamation's efforts to develop a new model to simulate the salinity in the Colorado River. The results of modeling efforts indicate that there's only a 3 percent chance of the numeric criteria being exceeded through 2008. This is the time period of the next Triennial Review. Also, there is a low probability that the numeric criteria be exceeded if no new salinity control projects are implemented. Even though there is a low probability that the numeric criteria will be exceeded, discussions at the meetings indicate that there is a continued desire to implement salinity control projects to further reduce the salinity concentrations in the Lower Basin. There was discussion about lowering the numeric criteria, but in lieu of lowering the numeric criteria, the Forum will evaluate setting salinity goals that are based on benefits received from reduced salinity concentrations.

OTHER BUSINESS

Board Member Retiring

Mr. Zimmerman announced that Mr. Gerald Gewe of the Los Angeles Department of Water and Power was retiring from his position and would not be officially attending Board meetings after the 10th of December. Mr. Gewe mentioned that though he would be retiring, and

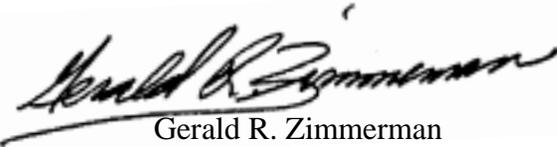
he will continue to be involved by teaching part time at the California State Polytechnic University in Pomona, California.

Next Board Meeting

Chairman Allen announced that the next meeting of the Colorado River Board will be held on Wednesday, December 15th, 2004, at Caesar's Palace Hotel, Las Vegas, Nevada at 3:00 p.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 11:30 a.m. on November 10, 2004.



Gerald R. Zimmerman
Executive Director