

Minutes of Regular Meeting
COLORADO RIVER BOARD OF CALIFORNIA
Wednesday, January 12, 2005

A Meeting of the Colorado River Board of California (Board) was held in Executive Suite Room 321, at the Ontario Airport Marriott Hotel, 2200 East Holt Boulevard, Ontario, California, on January 12, 2005.

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

Christopher G. Hayes, Designee
Department of Fish and Game

Lester A. Snow, Director
Department of Water Resources

Board Member Absent

Leonard E. Robinson

Others Present

Harold W. Ball
Steven B. Abbott
Steven Day
William I. DuBois
William J. Hasencamp
Cliff Hurley
Jeanine Jones
Russell Kitahara
Thomas E. Levy
Jay W. Malinowski
Dan Parks
David R. Pettijohn
Robert Pierotti
Michael D. Remington
Steven B. Robbins

Ed W. Smith
William H. Swan
James J. Taylor
Dennis B. Underwood
Joseph Vanderhorst
Charles Van Dyke
Loralee (Lee) Willer
Bill D. Wright

William S. Abbey
J.C. Jay Chen
Christopher S. Harris
Mark Van Vlack
Gerald R. Zimmerman

CALL TO ORDER

Chairman Allen, in the presence of a quorum, called the meeting to order at 10:08 a.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. Mr. Cliff Hurley, resident of Imperial County, requested to make a statement before the Board. Mr. Hurley had previously mailed several summaries of documents relating to the Law of the River and the use of Colorado River water in Imperial Valley. Regarding the recent drought management criteria required by the Reclamation, Mr. Hurley asked if Arizona had submitted its shortage sharing proposals to be discussed among the Lower Basin states. Mr. Hurley voiced his concerns that the Present Perfected Rights to the use of Colorado River in California remain protected by the provisions of the Law of the River.

Chairman Allen asked if there were any other comments and hearing none, moved to the next item.

ADMINISTRATION

Approval of Minutes

Mr. Zimmerman asked that the December 15th meeting minutes be approved.

MOTION: Upon the motion of Mr. Bond, seconded by Mr. Fisher, and unanimously carried, the Board approved the December 15th meeting minutes.

Final Schedule for Meetings during Calendar Year 2005

Mr. Zimmerman mentioned that the approved meeting schedule for 2005 was included in the Board folder.

AGENCY MANAGERS MEETING

Mr. Zimmerman reported that the Agency Managers had not met since the last Board meeting.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

Mr. Harris reported that as of January 6th, the storage at Lake Powell is at 8.6 million acre-feet (maf) or at 36 percent of capacity. The elevation of Lake Powell is 3,564 feet. The storage at Lake Mead is slightly over 14.38 maf, or 53 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 32.8 maf or 55 percent of capacity.

Mr. Harris further reported that precipitation for the October 1st through January 6th to be 110 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 projected unregulated inflow into Lake Powel for April through July 2005 is 7.8 maf. The inflow forecast for the month of January is 375,000 acre-feet or 93 percent of normal.

Mr. Harris pointed out that several stations in the Upper Basin are reporting above normal precipitation as depicted in data from the Colorado Basin River Forecast Center of the National Weather Service. Mountain ranges to the west of the Colorado River Basin showed higher than normal climate conditions and some areas in the basin such as San Juan River and some portions of the St. George and Virgin River watersheds. In the Lower Basin, particularly in Arizona, there has been significant precipitation in the deserts, Mogollon Rim, and the Little Colorado River Watershed.

Consumptive use for the three Lower Basin states is estimated to be 7.38 maf for 2004, compared to 7.5 maf for calendar year 2003.

State and Local Water Reports

Mr. Pierotti of the California Department of Water Resources reported that storage in the State Water Project (SWP) reservoirs in the north for the month of January are about the same as last January, both at 1.7 maf or 47 percent of capacity. In the south, reservoir storage has increased from about one maf to 1.3 maf. Overall the SWP storage has only increased from 2.8 to 3.1 maf or an increase of 6 percent of capacity. SWP deliveries have remained about 3.3 maf for both 2003 and 2004. Southern California SWP deliveries have increased from 1.73 maf in 2003 to 1.96 maf in 2004.

Mr. Foley of The Metropolitan Water District of Southern California (MWD) reported that the three main surface storage reservoirs of the Diamond Valley Lake, Lake Mathews and Lake Skinner are at 838,000 acre-feet or about 82 percent capacity. Diamond Valley Lake has 625,000 acre-feet in storage, or 78 percent of capacity. Lake Mathews has 175,000 acre-feet in storage, or 96 percent of capacity, Lake Skinner has 38,000 acre-feet in storage, or 87 percent of capacity. The recent rainstorms have contributed little to the three main reservoirs.

Mr. McDaniel of the Los Angeles Department of Water and Power reported that the snow pack in the Eastern Sierra's is at 35.8 inches of water content, which is about 81 percent of the April 1st normal and twice the amount reported last month. Overall, the Los Angeles Department of Water and Power hydrographers are projecting the snow pack is already at 100 percent of normal for the year and over 200 percent of normal for the year to date in the Eastern Sierra.

There was some discussion as to the projected status of the SWP. Allocations have been increased to 60 percent of requested contracted amount, and San Luis Reservoir is expected to fill by the end of January. There were periods when the SWP delta pumps were pumping at a rate of 9,000 cubic feet per second (cfs). It is still too early in the season, and northern SWP reservoirs are low enough that flood control releases are not expected to be scheduled.

Arizona v. California

Mr. William Abbey of the Attorney General's Office reported that the lawyers

representing all of the parties have approved the text of the settlement and that each of them have taken the settlement back to their respective agencies and boards. The settlement agreement has been formally approved by the Coachella Valley Water District, The Metropolitan Water District of Southern California, and the Quechan Indian Tribe. The State of Arizona has reached a separate settlement with the Tribe so they are not included in this agreement. Mr. Abbey continued that the remaining parties that haven't approved the settlement agreement are the State of California and the United States.

Mr. Abbey mentioned that the settlement agreement is in the Governor's office of Legal Affairs and the Governor's chief counsel is already familiar with the case and that every issue that was a concern of the State of California had been addressed in the agreement. With approvals from the State of California and the United States, the settlement agreement will then go to the Special Master who has indicated that it will be forwarded to the U.S. Supreme Court for its action.

Colorado River Operations

Colorado River Water Users Association

Mr. Zimmerman reported that statements from Deputy Secretary J. Steven Griles of the U.S. Department of the Interior and Commissioner John W. Keys III of the Bureau of Reclamation are included in the Board folder. Both statements are summaries of their presentations to the Colorado River Water Users Association. Deputy Secretary Griles went over recent and planned activities in the Colorado River Basin. Commissioner Keys discussed the prognosis of the reservoir system in 2005, the Basin states technical studies, and the Water 2025 program.

California Department of Water Resources Letter dated December 10, 2004, to Secretary of the Interior Norton Regarding California's Concurrence with the Executed Storage and Interstate Release Agreement

Mr. Zimmerman reported that included in the Board folder is a copy of a letter Mr. Lester Snow, Director of California Department of Water Resources, sent to Secretary Norton in support of execution of the Storage and Interstate Release Agreement (SIRA) between the United States, MWD, Southern Nevada Water Authority, and the Colorado River Commission of Nevada. The SIRA will allow for the management of up to 30,000 acre-feet annually.

Reclamation's Letter to MWD for the Approval of Revised Calendar Year 2004 Diversion Estimate for MWD

Mr. Zimmerman reported that Reclamation has approved a diversion of 755,550 acre-feet of water by MWD in 2004. As part of its approved diversions, MWD will divert 10,000 acre-feet for the benefit of the Southern Nevada Water Authority under the SIRA. Another 377 acre-feet is to be delivered through the MWD and San Diego conveyance systems to Tijuana, Mexico, and 20,000 acre-feet is to be delivered to the San Diego County Water Authority, as part of the IID/San Diego County Water Authority transfer under the Quantification Settlement Agreement.

Upper Colorado River Commission Letter to Bureau of Reclamation Requesting the Reduction of Releases from Lake Powell

Mr. Zimmerman discussed a letter from the Upper Colorado River Commission (UCRC), which was included in the handout material. The UCRC is requesting that Reclamation take steps to utilize and account for the current high flows on the tributaries in the Lower Basin and that those flows be applied to the required deliveries to Mexico. The UCRC have indicated the Upper Basin states should receive credit for at least half of the savings in the delivery to Mexico applied as an immediate reduction in the releases from Lake Powell. The UCRC has also requested that Reclamation resist any attempts by Mexico to reschedule its Mexican Treaty water deliveries.

MWD's Letter to U. S. Army Corps of Engineers (COE) and U.S. Bureau of Reclamation regarding Coordination of Releases from Parker, Alamo, and Painted Rock Dams

Mr. Zimmerman discussed a letter that MWD had sent to both the COE and Reclamation suggesting that flows out of Parker, Alamo, and Painted Rock Dams be coordinated to conserve as much water as possible, which was included in the Board folder. The COE and Reclamation, in the past, have coordinated flows to conserve water in Lake Mead, as well as Lakes Mohave and Havasu, as the U.S. continues to meet the Mexican Water Treaty delivery requirements.

News Release from New Mexico's State Engineer Regarding the Proposed San Juan Basin Water Rights Settlement Between the Navajo Nation and the State of New Mexico

Mr. Zimmerman reported that included in the Board folder is a news release regarding the proposed San Juan Basin Water Rights Settlement between the Navajo Nation and the State of New Mexico. The settlement is under consideration for approval. This settlement will draw to a close more than 20 years of effort to adjudicate the Navajo Nation's water rights claim. Within the settlement are water development projects that will provide for settlement of the Navajo Nation water rights claims, allow as well as, future growth in the San Juan Basin.

Basin States Discussion

Basin States Representatives' Meeting on December 17, 2004, Las Vegas, Nevada

Mr. Zimmerman reported that the Basin States met to give the Upper Basin states an opportunity to clarify their concerns expressed in separate letters dated October 7, 2004 to Secretary Norton and the Lower Basin states. The focus of the discussion was on releases from Lake Powell, Lower Basin shortages, and Mexico sharing shortages, water usage during times of drought, a Compact call on the Upper Basin, and water usage on the Lower Basin tributaries and how tributary water use is to be accounted for under the Compact.

Mr. Zimmerman described the Upper Basin concerns regarding Lake Powell releases as:

1. The 8.23 maf release in the Long-Range Operating Criteria is considered a minimum objective release and not a requirement.
2. Less than the minimum objective release can be made based on inflow into Lake

Powell.

3. Upper Basin has no obligation to release water under Article III(c) for the Mexican Water Treaty as long as a deficiency does not exist.
4. The Upper Basin purports to have a credit of about 100 maf because of past releases over the last 10 years.
5. The power generating capacity at Lake Powell should be protected.
6. A mid-year review of releases from Lake Powell must occur.
7. The Upper Basin States advocate implementation of procedures to allow for the conjunctive storage of water in Lakes Mead and Powell

Regarding Lower Basin shortages, the Upper Basin wants the following items addressed:

1. Develop criteria or guidelines for the declaration of shortages similar to those of the Interim Surplus Guidelines.
2. Identify and implement water conservation and efficiency measures in the Lower Basin.
3. Identify to what degree of the operations should be driven by power generation.

Regarding the sharing of shortages with Mexico:

1. Define the term “extra-ordinary drought” in the Mexican Water Treaty.
2. Define when an “extra-ordinary drought” occurs and how much should Mexico share in the shortage.
3. Begin discussions with Mexico regarding these topics.

Regarding water usage criteria:

1. Groundwater banking should be restricted or not allowed under certain drought conditions.
2. Identify other water uses that should be restricted under drought conditions.

Regarding a Compact call on the Upper Basin:

1. The Upper Basin states would have difficulty cutting back, or curtailing, diversions while the Lower Basin is receiving and diverting a full supply.
2. Only post-1929 rights could be curtailed in the Upper Basin.

Regarding Lower Basin tributaries:

1. The Compact apportioned the mainstream and tributaries.
2. The additional 1.0 maf apportioned in Article III(b) of the Compact includes the mainstream and tributaries.

Mr. Zimmerman discussed items of the Compact and “Law of the River” with members of the Board and the audience.

Living Rivers News Article Entitled “Colorado Compact: Ageless or Dried Up?”

Mr. Zimmerman mentioned that included in the Board folder is an article from the environmental group, Living Rivers, which expresses opinions regarding the efficacy of the 1922 Compact and the delivery of water to the Lower Division States and Mexico as well as environmental impacts of the operation of Glen Canyon Dam. There were some discussions of the benefits provided by energy production, which includes revenue for environmental programs in the Upper Basin. Glen Canyon Dam adds to more than the water supply of the Colorado River Basin. It was noted that the drought of the last five years would have caused the lake level at Lake Mead to be much lower than it is today without the Glen Canyon Dam.

Request for FY 2006 Funding for Lower Colorado River Regulatory Storage

Mr. Zimmerman reported that included in the Board folder were two draft letters requesting FY 2006 funding appropriations for the planning and construction of water conservation facilities in the Lower Basin. The first is to complete the off-stream storage reservoir adjacent to the All-American Canal. About \$32 million is needed to complete the environmental compliance, design and begin construction of the 10,000 acre-foot reservoir. The second request is for two million dollars to complete the environmental compliance and dredging work behind Laguna Dam. Once restored, Laguna Dam will hold an additional 1,100 acre-feet of storage. The additional storage will improve operating efficiency within the Lower Basin. Mr. Zimmerman asked the Board for approval to execute those letters on behalf of the Board.

MOTION: Upon the motion of Mr. Fisher, seconded by Mr. Foley, and unanimously carried, the motion was approved.

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 distributed. The *Federal Register* notice of document availability was published on December 17, 2004. The documents were given to the EPA also during the third week of December. There is a 30-day public comment period then the documents become final. Previous public comments, as well as responses to those comments, have already been included in the final documents.

Mr. Harris reported that the participants to the LCR MSCP are working on the implementation and funding and management agreements. Within California, meetings are continuing to finalize the cost-sharing agreements. MWD's certification of the EIR is expected on February 7, 2005. The other California agencies will then certify and approve the documents between February 8th and the end of the month.

Mr. Harris added that it may be necessary to execute a Memorandum of Understanding or agreement between the California Department of Fish and Game (CDFG) and Reclamation and the California participants with respect to the long-term program implementation, as Reclamation will be implementing the LCR MSCP on behalf of the California agencies.

Mr. Harris summarized the needed items to be completed for the signing of the Record of Decision on March 14, 2005:

January-

1. Finalize California Endangered Species Act and Endangered Species Act Permit Terms by January 21st.
2. Finalize the California parties funding by January 31st.
3. Finalize funding and Management Agreements by January 31st.

February-

1. MWD certifies EIR by February 7th.
2. Other California agencies certify and approve between February 8th and 28th.
3. If necessary, finalize the MOU with CDFG regarding implementation by February 28th.

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

Mr. Harris reported that CDFG prepared and distributed a draft Incidental Take Permit on December 8, 2004. There was a meeting on December 13, 2004, in Ontario, California with CDFG and representatives of the California Agencies to discuss the 2081 permit terms and conditions. The California agencies prepared revised sections of the CESA permit and submitted them to CDFG for review on January 10, 2005. The CESA permit terms and conditions must be conceptually agreed upon within the timeframe remaining in order to ensure that the LCR MSCP is completed on schedule.

Willow Flycatcher (WIFL) Critical Habitat Update

Mr. Harris reported that the U.S. Fish and Wildlife Service (USFWS) has extended the period for submitting comments on the proposed WIFL critical habitat designation. The comment period was extended to March 30, 2005, while the USFWS prepares a draft economic analysis associated with the designation of critical habitat. Though the economic analysis is expected relatively soon, there will be a period of 90 to 120 days for public review. The Board's staff has prepared comments that may require some revision as the new documents become available.

Lower Colorado Water Supply Project

Mr. Zimmerman reported that work is proceeding on the advance delivery concept. There will be a meeting with the City of Needles City Council, and the Public Utilities Board on February 22, 2005, to discuss the status of the Project and temporary sale of excess water to MWD.

WATER QUALITY

Utah Governor Olene Walker's Letter Regarding the Moab Uranium Mill Tailings Site Cleanup at Moab, Utah

Mr. Zimmerman reported that included in the Board materials are several items related to the U.S. Department of Energy's (DOE) Moab Uranium Mine Tailings Draft EIS that deals with the cleanup of the surface and groundwater contamination at the site adjacent to the Colorado

River. Included in the Board folder was a letter from Utah's Governor Walker, which has been sent to DOE advocating that the Uranium mine tailings be removed from the site and placed outside the Colorado River Watershed.


OTHER BUSINESS

Next Board Meeting

Chairman Allen announced that the next meeting of the Colorado River Board will be held on Wednesday, February 9, 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. McDaniel moved that the meeting be adjourned.

MOTION: Upon the motion of Mr. McDaniel, seconded by Mr. Foley, and unanimously carried, the meeting was adjourned at 12:36 p.m. on January 12, 2005.


Gerald R. Zimmerman
Executive Director