

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

February 14, 2006

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

As of February 1, 2006, storage in the major Upper Basin reservoirs decreased by 436,300 acre-feet and storage in the Lower Basin reservoirs increased by 511,700 acre-feet during January. Total System active storage as of February 5th was 34.162 million acre-feet (maf) or 57 percent of capacity, which is 3.756 maf more than one year ago.

January releases from Hoover, Davis, and Parker Dams averaged 5,480, 4,910 and 4,110 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of February 2006 are 11,200, 10,100, and 7,500 cfs, respectively. The February releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir. A total of 176 acre-feet were delivered to the City of Tijuana in 2005.

As of February 9th, taking into account both measured and unmeasured return flows, the Lower Division States' consumptive use of Colorado River water for calendar year 2006, as forecasted by Reclamation, totals 7.489 maf and is described as follows: Arizona, 2.825 maf; California, 4.362 maf; and Nevada, 0.302 maf. The Central Arizona Project (CAP) will divert 1.602 maf, of which 0.178 maf are planned to be delivered to the Arizona Water Bank. The Metropolitan Water District of Southern California (MWD) will use about 0.652 maf in 2006, which is 245,000 acre-feet less than its 2005 use of mainstream water.

The preliminary end-of-year estimate by the Board staff for 2005 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 3.581 maf. This estimate, by Board staff, is based on the collective use through December 2005 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

Reclamation's Supplemental Information Report Regarding the All-American Canal Lining Project

Included in the Board folder is a copy of the Executive Summary of a Supplemental Information Report (SIR) prepared by Reclamation in order to update and provide a reanalysis of information included in the Final Environmental Impact Statement associated with the proposed

All-American Canal Lining Project. The SIR for the canal lining project evaluated new information relevant to potential environmental concerns and concluded that "...while new information is available for the issue areas, there are no significant new circumstances or information relevant to environmental concerns that have a bearing on the Project or its impacts since completion of the Final EIS/EIR and the Reexamination and Reanalysis Document." Based upon this conclusion, Reclamation has determined that a supplement to the Final EIS/EIR is not required for the canal lining project to continue on schedule. A copy of Reclamation's January 13th cover letter is included with the Executive Summary of the SIR in the Board folder.

U.S. District Court Order In the All-American Canal Lining Project Litigation

On February 8th, U.S. District Court Judge Philip M. Pro issued an order dismissing seven of the eight counts contained in the original complaint regarding the All-American Canal Lining Project that was filed by several non-governmental organizations. The judge dismissed counts 1-4, which dealt with water rights-related issues; and counts 6-8 which alleged violations of the All-American Canal Lining Act, Endangered Species Act, and Migratory Bird Treaty Act. The remaining count, Count 5, focuses on alleged violations of the National Environmental Policy Act and the federal Administrative Procedures Act. A copy of the Court's orders dismissing the seven counts has been included in the Board folder.

Correspondence Regarding the Lower Colorado Water Supply Project

On January 4th the City of Needles Board of Public Utilities sent a letter to Reclamation's Regional Director, Robert W. Johnson, regarding the Lower Colorado Water Supply Project. The Needles Board of Public Utilities has requested the assistance of Reclamation in enforcing overall compliance with the Lower Colorado Water Supply Project Act by ensuring that all eligible potential subcontractors are identified and brought into compliance. According to the City of Needles Board of Public Utilities, ensuring that all of the potential subcontractors are identified and brought into the program is critical to the economic viability and success of the LCWSP.

In response to the City of Needles' letter, Reclamation, in a letter dated January 26th, stated that it plans to issue a rule to address unauthorized use of Colorado River water in the Lower Basin. Reclamation plans to issue the proposed rule and decision-making process in the *Federal Register* in the spring of 2006. According to Reclamation, the primary purpose of the proposed rule-making process is to assist unauthorized water users acquire a legal right to use mainstream water, to the extent possible. Reclamation expects that this rule-making process will help users recognize the potential benefits associated with the City of Needles' LCWSP subcontracting option.

Basin States Discussions

Basin States' Meetings

Representatives of the Colorado River Basin states met on January 29th, 30th, and 31st to finalize the states' input to Secretary Norton on the scope of Reclamation's NEPA process to

develop shortage guidelines for the Lower Basin and coordinated management guidelines for the operation of Glen Canyon and Hoover Dams. After three days of intense discussions and various drafts, the Basin states have prepared three documents: 1) a transmittal letter to Secretary Norton, 2) a Seven Basin states' Preliminary Proposal Regarding Colorado River Interim Operations, and 3) a draft Basin states agreement. These three documents were sent to Secretary Norton on February 3, 2006. Copies of these documents are included in the Board folder.

It is recognized that as the Basin states and stakeholders continue through the scoping process that both the preliminary proposal and the draft agreement will be refined and more detail will be added. Also, there will be a need to develop additional agreements among the Basin states to implement the recommendations contained in the Seven Basin States' Preliminary Proposal Regarding Colorado River Interim Operations.

The Preliminary Proposal Regarding Colorado River Interim Operations addresses the full range of expected operations of both Lake Powell and Lake Mead. It identifies water surface elevations in both Lake Powell and Lake Mead where the water releases from Glen Canyon Dam would be modified to either conserve storage in Lake Powell or to attempt to balance the storage in the two reservoirs. The conservation releases from Glen Canyon Dam are to protect critical water surface elevations in Lake Powell and to avoid a Compact Call for the Upper Basin to curtail its uses, while the balancing releases are to protect critical water surface elevations in Lake Mead and to avoid shortages in the Lower Basin. In order to accomplish these objectives the annual releases from Glen Canyon Dam will vary from 7.0 maf to 9.5 maf unless Lake Powell is nearly full and equalization releases are required; then, the annual release from Glen Canyon Dam could be larger than 9.5 maf.

The Preliminary Proposal Regarding Colorado River Interim Operations also addresses system efficiency, extraordinary conservation and augmentation projects. System efficiency projects are those projects that conserve, or salvage, water that is being lost to the Colorado River System where there is not a Section 5 Boulder Canyon Project Act water service contract associated with the use of the water that is being lost. An example of such a project is the conservation, or salvage, of water that is currently flowing to Mexico, that is above the United States' delivery requirement to Mexico in accordance with the 1944 Mexican Water Treaty. As compared to system efficiency projects, extraordinary conservation projects are associated with the conservation of water that is being lost to the Colorado River System where there is a Section 5 Boulder Canyon Project Act water service contract associated with the use of the water that is being lost. An example of an extraordinary conservation project is the fallowing of a parcel of land within an irrigation district that has had a history of use. Augmentation projects are projects that provide additional water for use within the Colorado River System. Examples of augmentation projects are the introduction of additional water into the Colorado River System through weather modification or the importation of non-Colorado River System groundwater into the Colorado River System.

The Basin states have proposed that the Secretary develop a policy and accounting procedure that allows water that is conserved through extraordinary conservation measures or efficiency projects or that is imported into the Colorado River System from non-Colorado River sources to be transferred to the project beneficiary through Articles II(B)(2) and II(B)(6) of the

1964 Decree in *Arizona v. California*. The Basin states have suggested that a mechanism, which could be used, to allow this to occur would be through the concept of creating “Intentionally Created Surplus” (ICS) credits. In a specific year through forbearance agreements, these ICS credits could be used by the Section 5 contractor in addition to the water that was apportioned to the contractor.

The Basin states proposal also recognizes the desirability of being able to have exchanges of water between and among the Lower Division states. Thus, the proposal would allow a Section 5 Boulder Canyon Project Act contractor in one Lower Division state to secure an additional water supply by funding the development of a non-Colorado River System water supply in another Lower Division state. The new non-Colorado River water supply developed would be consumptively used in the State in which it was developed by a contractor and that contractor would intentionally reduce its consumptive use of Colorado River water. This would allow the contractor in the other Lower Division state that provided the funding for development of the non-Colorado River water supply to consumptively use the Colorado River water that was intentionally unused. An example of such a project would be the construction of a desalinization project where the product water would be used in the state of the desalinization project and a like quantity of Colorado River water would be used in another Lower Division state.

As indicated above, the Basin states will continue to meet to refine and provide needed detail to the preliminary proposal and the draft Basin states agreement. The states will also begin to identify and develop the additional agreements, such as forbearance agreements, that are needed among the Basin states to implement the recommendations contained in the Seven Basin States’ Preliminary Proposal Regarding Colorado River Interim Operations.

Miscellaneous News Articles of Interest

Included in the Board folder are a series of related news articles associated with the recent agreements reached among the seven Basin states regarding the development of coordinated reservoir management strategies, shortage guidelines, and providing ‘bridge’ water supplies to the State of Nevada as it develops additional water supplies over the next decade.

Another article reports that the State of Colorado plans to establish a permanent fund for cloud-seeding in an effort to provide additional water resources for use within the state as well as in the other Colorado River Basin states. Under the proposal, the Colorado Water Conservation Board is placing \$75,000 in a grant program that could be utilized by applicants in implementing specific weather modification programs or activities. Based upon existing state law, potential program applicants would be required to obtain a state permit from the Water Conservation Board prior to initiating weather modification or cloud-seeding activities.

State of Utah’s Lake Powell Pipeline Development Act (Utah Senate Bill 27)

In late-2005, the Utah Legislature introduced proposed legislation to initiate development of a pipeline from Lake Powell to redistribute Utah’s Colorado River water resources to users located in southwestern Utah. The proposed legislation would authorize the Board of Water Resources to construct a pipeline and contract for the sale of water resources conveyed in the

pipeline. Additionally, the legislation would authorize the creation of a Project Management Committee, and authorize the construction and operation of hydroelectric facilities associated with the pipeline. Finally, the proposed legislation authorizes several water districts receiving the water supplies to use, exchange, or sell the developed water, and establishes an enterprise fund for the continued operation and long-term maintenance of the pipeline project. Included in the Board folder is a copy of the proposed legislation.

Colorado River Environmental Activities

White House Conference on Cooperative Conservation

On February 3rd, the President's Council on Environmental Quality (CEQ) distributed a letter to the participants of the *White House Conference on Cooperative Conservation* held in late-August and early-September 2005 in St. Louis, Missouri. Based upon the suggestions received at the conference and through follow-up discussions, the Administration's Fiscal Year 2007 budget request will include funding for various programs and activities that will contribute to the success of cooperative conservation programs nationwide. Increased funding is being requested for various conservation programs and initiatives in the U.S. Department of Agriculture's wetland reserve program and a minor increase in funding to various Department of the Interior programs.

The CEQ letter also described activities that are underway to synthesize and refine the suggestions stemming from the Day 2 discussion held during the conference. CEQ wants to develop a series of short-, mid-, and long-term actions that allow for the creation of a more efficient and collaborative federal workforce, and provide solutions to statutory and regulatory barriers to cooperative conservation.

Finally, the CEQ is also working to fulfill federal commitments made at the conference, and is promoting the hiring of federal employees with proven skills in collaboration and building partnerships. CEQ and the Office of Management and Budget have issued a joint policy memorandum outlining a proposed policy for the development of best management practices for conflict resolution and collaborative problem-solving approaches.

A copy of the CEQ letter describing these activities is included in the Board folder.

Colorado River Endangered Fish Recovery Plan Ruled Inadequate by U.S. District Court

On January 23rd, U.S. District Court Judge Frederick Martone rejected the current recovery plan for the federally-endangered humpback chub as being inadequate. In his ruling, Judge Martone ruled that the current recovery plan did not adequately lay out a timeline for the endangered fish population's recovery and did not allocate any funds to accomplish the recovery actions. The Court's ruling is in response to a lawsuit brought by a coalition of environmental organizations monitoring endangered species activities in the Grand Canyon reach of the Colorado River Basin. Based upon the Court's ruling, the U.S. Fish and Wildlife Service will be required to re-evaluate the humpback chub recovery plan's recovery timeline and specific species conservation goals and objectives. Copies of two news articles describing the Court's

recent order and background information regarding the lawsuit that was brought the environmental organizations have been included in the Board folder.

WATER QUALITY

Colorado River Basin Salinity Control Forum

At the November Board meeting, I reported that the Colorado River Basin Salinity Control Forum (Forum) adopted the 2005 Triennial Review report. The Triennial Review report contains the salinity standards that should be adopted by the states and then forwarded to the U.S. Environmental Protection Agency (EPA) for final approval.

In California, the State Water Resources Control Board (SWRCB) is the state agency responsible for adopting the salinity standards for the Colorado River. In December 2005, the SWRCB released a Notice of Public Hearing to consider approval of the proposed salinity standards contained in the final 2005 Triennial Review report. That public hearing was held on February 1st in Sacramento, California. At the public hearing, the State Water Resources Control Board adopted a resolution approving the final 2005 Triennial Review report of the Salinity Control Forum. A copy of the Board's Resolution (No. 2006-0007) is included in the Board folder.

Southern Nevada Perchlorate Remediation

Copies of two recent news articles reporting that the United States has agreed to fund a portion of the perchlorate contamination remediation costs near Henderson, Nevada, have been included in the Board folder. According to the news articles, the federal government will pay Tronox Inc., formerly known as Kerr-McGee Chemical, \$20.5 million and an additional 21 percent of the cleanup costs incurred after 2011 when Tronox' insurance policy expires. To date, Tronox has spent nearly \$122 million in cleaning up the Henderson site.



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