

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

November 14, 2006

ADMINISTRATION

Proposed 2007 Meeting Schedule

Included in the Board folder is a copy of the proposed 2007 meeting schedule for the Board. Please review the proposed meeting schedule and be prepared to approve or modify, as appropriate, the schedule at the December Board meeting in Las Vegas, Nevada.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

As of November 1, 2006, storage in the major Upper Basin reservoirs increased by 697,100 acre-feet and storage in the Lower Basin reservoirs decreased by 17,700 acre-feet during October 2006. Total System active storage as of November 2nd was 34.208 million acre-feet (maf), or 57 percent of capacity, which is 0.602 maf less than one year ago (Upper Basin reservoirs increased by 553,700 acre-feet and Lower Basin reservoirs decreased 1.156 maf).

October releases from Hoover, Davis, and Parker Dams averaged 9,170, 11,140, and 7,420 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of November 2006, are 8,800, 8,300, and 6,300 cfs, respectively. The November releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir.

As of November 6th, 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 7.354 maf and is described as follows: Arizona, 2.798 maf; California, 4.256 maf; and Nevada, 0.300 maf. The Central Arizona Project (CAP) will divert 1.619 maf, of which 0.220 maf are planned to be delivered to the Arizona Water Bank. The Metropolitan Water District of Southern California (MWD) will use about 0.613 maf, which is 284,000 acre-feet less than its 2005 use of mainstream water.

The preliminary end-of-year estimate by the Board staff for 2006 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 3.708 maf. This estimate is based on the collective use, through September 2006, 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

Letter from Assistant Secretary of the Interior Limbaugh Regarding the Draft 2006 Upper Basin Hydrologic Determination

On October 10th, Assistant Secretary of the Interior for Water and Science, Mr. Mark Limbaugh, responded to Senator Jon Kyl's request that the Department work closely with the Lower Division States in the development of the Final 2006 Upper Basin Hydrologic Determination. In his letter, Assistant Secretary Limbaugh assured Senator Kyl that Reclamation and the Department will fully consider all comments provided by entities within the Lower Division States, and that all comments are currently under review by Reclamation and the Department. I have included a copy of Assistant Secretary Limbaugh's letter in the Board folder.

To date, the Lower Basin states have not received a response to their letter of September 7, 2006, raising concerns regarding the 2006 Upper Basin Hydrologic Determination. However, I have been informed that a response is being prepared.

Reclamation's Proposed Rule-Making Process Regarding Non-Contract Mainstream Water Use in the Lower Basin

As we discussed at the October Board meeting, in late-August Reclamation published a notice in the *Federal Register* regarding the initiation of a proposed rule-making process addressing the non-contract use of Colorado River mainstream water in the Lower Basin. Currently, Reclamation estimates that up to 30,000 acre-feet per year is diverted and used by non-contract water users in the three Lower Basin states. Reclamation anticipates establishing a process that will result in identifying these non-contract water uses, and where possible, legalize the non-contract use, or require that non-contract water users cease the use of mainstream water. Comments from interested parties were to be received by Reclamation on or before October 17th. Pursuant to the Board's direction, Board staff finalized a comment letter to Reclamation. The final letter, included in the Board folder, addresses the proposed rule-making process and several issues that should be addressed by Reclamation during that process. For your information, a copy of the comments prepared by the Colorado River Commission of Nevada has been included in the handout material.

Recent Agreements to Participate in Reclamation's Demonstration Program to Create Intentionally Created Surplus

Included in the Board folder are copies of two recent letters signed by the Palo Verde Irrigation District (PVID) providing its agreement to forebear the diversion and use of water created through Reclamation's demonstration program to create "intentionally created surplus" (ICS) water to be stored in Lake Mead in 2006 and 2007. The first letter provides the agreement to forebear the diversion and use of water created through The Metropolitan Water District of

Southern California (MWD) and Reclamation program; while the second letter provides PVID's agreement to forbear the diversion and use of water created through the Imperial Irrigation District (IID) and Reclamation program. The Coachella Valley Water District will also be signatory to each of the letters.

Nevada's 2005 Consumptive Use and Request for Article II(B)(6) Water

On November 3rd, the Colorado River Commission of Nevada (CRC) informed Reclamation that the State of Nevada may be determined to have exceeded its basic apportionment of mainstream water by approximately 1,778 acre-feet in 2005. The CRC requested that this amount of potential over-use be considered to have been consumptively used according to Article II(B)(6) of the Consolidated Decree in *Arizona v. California*. The basis for the CRC's request is that the State of Arizona is likely to have not used its full apportionment of 2.8 million acre-feet in 2005. A copy of the CRC's letter requesting this determination is included in the Board folder.

All-American Canal Lining Lawsuit

Regarding the All-American Canal Lining lawsuit pending in the United States Ninth Circuit Court of Appeals, the State of California recently filed an *amicus* brief in support of the defendants/appellees. The brief lays out an argument in favor of the District Court's original decision. It is my understanding that this case is still scheduled for briefing and argument on December 4, 2006. To date, the panel that will hear the case has not been named.

Basin States Discussions

Seven Basin States Representatives Meetings

Discussions among representatives of the Colorado River Basin states are continuing. Since the October Board meeting eight meetings of representatives of the Basin states have been held. These meetings focused upon the discussions involving resolution of issues in the Lower Basin related to the Lower Basin's forbearance agreement, obtaining reports from Reclamation on the status of its NEPA/EIS process on developing guidelines for the declaration of shortages in the Lower Basin and for the coordinated operations of Lake Powell and Lake Mead, refining the draft Basin States Agreement, and discussing approaches for implementing reduced deliveries of water to Mexico in accordance with the 1944 Mexican Water Treaty during times of shortages in the United States.

The discussions among the Lower Basin states have resulted in general agreement on: 1) shortage sharing between Arizona and Nevada; 2) accounting for water use of Non-Colorado River System water, e.g., Nevada's non-system groundwater; and 3) accounting for Nevada's conserved water on the Virgin and Muddy Rivers that is associated with pre-Colorado River Compact water rights. The major task now is to draft the exhibits to the Lower Basin Forbearance Agreement that fully describe the terms of the agreement that has been reached among the states. Nevada has scheduled a meeting for November 14th for representatives from Arizona and Nevada to continue to draft the exhibits. Unfortunately, principals from California

could not attend this meeting. An effort is being made to set a meeting where principals from all three of the Lower Basin states can be in attendance. Before the exhibits or the forbearance agreement are finalized, these documents will be brought to the Board for its consideration.

The Basin States Technical Committee met on October 31st to obtain a status report from Reclamation on its development of the resource analysis associated with the NEPA/EIS process on the development of guidelines for declarations of shortages in the Lower Basin and for the coordinated operations of Lake Powell and Lake Mead. During the meeting Reclamation staff described the resources that are being analyzed and the approach that is being used in analyzing the resources. Reclamation staff indicated that representatives of several environmental groups have requested a similar briefing,

Three meetings among the Lower Basin states and the Basin States Technical Committee have been held to discuss provisions in the 1944 Mexican Water Treaty related to reductions in the delivery of water to Mexico during an extraordinary drought. This Technical Committee, composed of attorneys and engineers, has focused its discussions on the interpretation of the language contained in the Treaty and how the reductions in the delivery of water to Mexico should be applied. The Technical Committee is continuing to meet and will hold its next meeting in early January 2007.

Representatives of the Basin states met in Las Vegas, Nevada, on October 30th. The primary focus of the meeting was on the status of the discussion in the Lower Basin regarding: 1) shortage sharing between Arizona and Nevada; 2) accounting for water use of Non-Colorado River System water, e.g., Nevada's non-system groundwater; and 3) accounting for Nevada's conserved water on the Virgin and Muddy Rivers that is associated with pre-Colorado River Compact water rights. During the meeting there was also discussion regarding: 1) efforts of the Technical Committee on Mexico and 2) the status of Reclamation's NEPA/EIS process in development of guidelines for declaration of Shortages in the Lower Basin and for Coordinated Operations of Lake Powell and Lake Mead. Status reports were provided on: 1) the Basin states weather modifications efforts; 2) California's and Reclamation's intentionally created surplus (ICS) demonstration programs in 2006 and 2007; 3) the litigation on the All-American Canal Lining Project and Glen Canyon Dam operations; and 4) operations of the Yuma Desalting Plant in 2007. The Yuma Desalting Plant will be started up at 10 percent of capacity in early 2007.

During the October 30th Basin states meeting, it was determined that revisions to the draft Basin States Agreement that was transmitted to Secretary Norton, along with the Seven Basin States' Preliminary Proposal Regarding Colorado River Interim Operations, on February 3, 2006, were warranted based upon recent discussions among the states. As a result, the Basin States Drafting Committee met in Las Vegas on November 13th to review the draft Basin States Agreement and discuss areas where modifications were warranted. A revised draft of the Agreement will be available for the next meeting of the Basin states representatives, which is set for December 15th following the Colorado River Water Users Association meeting in Las Vegas, Nevada.

Colorado River Long-Term Augmentation Options Project Status Report

The consultants for the Colorado River Long-Term Augmentation Options Project that is being funded by the Southern Nevada Water Authority met with the Basin States Technical Committee on October 20th to discuss the status of their effort and to review the white papers that have been prepared. During the meeting the Technical Committee members discussed the white papers that have been prepared and identified those projects that should be considered further. Those projects that the Technical Committee indicated that should be considered further include:

- Vegetation Management
- Brackish Water leaving the United States
- Conjunctive Use and Water Banking in the Lower Basin
- Ocean Desalinization in the United States and Mexico
- Colorado River Imports
- Stormwater Runoff (Gila River/Painted Rock Reservoir)

The Technical Committee was of the opinion that the other options that were being considered by the consultants either were described adequately in the white papers or were projects that should be left for the individual states to develop.

During the October 30th Basin states meeting, the consultants provided a status report of their activities and the efforts of the Basin States Technical Committee to identify potential projects that deserve further consideration. It was reported that the project is on schedule and that it is anticipated to be completed in late-February 2007.

Colorado River Environmental Activities

Status of the Glen Canyon Dam Adaptive Management Program

The Glen Canyon Dam Adaptive Management Program's Technical Work Group (TWG) recently held a two-day meeting in Phoenix, Arizona, on November 8-9, 2006. At this meeting, the TWG addressed several issues, including the following: (1) Received updates regarding the Fiscal Year 2007 work plan for the Grand Canyon Monitoring and Research Center (GCMRC); (2) received updates from the Science Advisors Panel regarding the various science plans associated with the GCMRC's Long-Term Experimental Plan; (3) discussed the potential scheduling and recommendation for conducting a Beach-Habitat Building Flow (BHBF); and (4) received a preliminary update on the development of the Fiscal Year 2008 budget.

As we have discussed at prior Board meetings, data collected through the Glen Canyon Dam Adaptive Management Program (AMP) has resulted in a scientifically-based acknowledgement that the Glen Canyon Dam Operations EIS preferred alternative of Modified Low-Fluctuating Flows (MLFF) may not be the best flow regime for the many natural and physical resources in Glen Canyon National Recreation Area and Grand Canyon National Park. Consequently, the AMP and the GCMRC have been analyzing and evaluating four different experimental flow regimes. All of the experimental flow regimes share some common characteristics (i.e., non-flow-related components), as well as contain unique characteristics (i.e.,

flow-related components). The common non-flow components include, for example, the following:

- Construction and use of a temperature control structure;
- Control of non-native coldwater fishes (i.e., rainbow and brown trout);
- Humpback chub disease and parasite research;
- Humpback chub population translocation;
- Creation of a Humpback chub refugia
- Humpback chub population augmentation; and
- Implementation of short-term field experiments to address specific science questions related to various experimental flow options.

The flow-related components typically involve modification in flow releases through Glen Canyon Dam, and involve variations in ramping rates and the volumes associated with monthly releases through the Dam. For example, one option would slightly modify the flow releases from that of the existing MLFF flow regime (i.e., the Base Case). Another option would tend to simulate the Seasonally-Adjusted Steady Flows (SASF) alternative, and would most closely mimic a “natural hydrograph” for this reach of the river, i.e., low flows in late summer and winter months and large flows in the spring and early summer months. The other two options are generally combination of various flow components from the existing MLFF regime and the proposed SASF alternative.

Depending upon the precise operational scheme and flow regime selected there would be potential economic impacts to those contract holders of Colorado River Storage Project hydroelectric energy. Currently, there are ongoing discussions among the CRSP contract holders, Basin States, Western Area Power Administration, and Reclamation regarding the scope of the potential economic impacts. The TWG did take a ‘straw vote’ regarding a recommendation of a preferred experimental flow regime option for the AMWG’s consideration at its early-December meeting. Based upon the results of the poll, the TWG generally supported the two variations of the MLFF that protected or maximized, to the extent possible, the economic benefits of Glen Canyon Dam hydropower generation, yet provided some of the SASF flow components for the benefit of the downstream natural resources.

Also, the TWG reconsidered the need to conduct another BHBF experiment. GCMRC scientists have reported that a significant amount of sediment recently discharged into the mainstream near the confluence with the Paria River. This sediment is the result of monsoon storms in the region during the summer and fall months. Without a BHBF, this sediment is likely to slowly migrate down the main channel of the river without increasing the size of beaches or improving backwater habitats. The TWG and GCMRC advocate conducting some form of short-term “spike-flow” release to move much of this sediment up onto beaches and deposit new mud and sand in backwaters along the mainstream through the Grand Canyon. The TWG recommendation will be presented to the AMWG for its consideration at the December meeting.

Draft Programmatic Environmental Impact Report – Salton Sea Ecosystem Restoration Program

On October 19th, the Departments of Fish and Game and Water Resources released the draft Programmatic Environmental Impact Report (PEIR) related to the proposed Salton Sea Ecosystem Restoration Program. The draft PEIR describes eight alternatives and compares these to existing conditions and two No Action alternatives. In association with public review and comment on the draft PEIR, three public workshops will be held on November 14-16, 2006. The comment period on the draft PEIR began on October 19th and closes on January 16, 2007. Copies of the draft PEIR can be obtained from the Department of Water Resources. I have included copies of the Departments of Fish and Game and Water Resources announcement of the release of the draft PEIR in the Board folder.

WATER QUALITY

Salinity Control Forum and Work Group Meetings

The Colorado River Basin Salinity Control Forum (Forum), the Advisory Council (AC), and the Forum's Work Group meetings were held in Scottsdale, Arizona, from October 24th to October 26th. The main purpose of the Work Group meeting was to review the Forum's meeting agenda, to prepare for the Forum's meeting, and to review the recommendations to be made to the Forum.

The AC meeting was held on October 25th in the morning and reconvened in the afternoon of October 26th to hear the issues brought to the AC by the Forum. There was a tour on October 25th of the City of Scottsdale water treatment facilities.

The issues at the Forum meeting that required Forum's decision and approval were as follows:

- The Forum concurred with a recommendation by the Forum's Cost-share Rate Committee that the existing cost rate of 75/25 for the NRCS on-farm projects should not be revised for FY 2007 and that the Cost-share Rate Committee should continue to work with NRCS to find an appropriate cost share formula, which could be applied in the future. The Forum approved a motion to take the issue to the AC for approval.
- The Forum approved the Work Group's recommendation that the NRCS's Manila Project become an approved salinity project. The cost effectiveness of the Manila Project is \$46/ton.
- The Forum discussed the Huntington-Cleveland Project. The Huntington-Cleveland Project is a \$45 million approved project (about \$25 million is funded by Reclamation and \$20 million is provided by a local power company through a cooperative agreement with Reclamation). However, it was recognized that there is a \$12 million shortfall to complete the project due to misinterpretation of the cooperative agreement. Reclamation intends to fund about \$6 million of the shortfall from the Basin states fund and the

remaining \$6 million will be provided through a loan from the State of Utah. The Forum's concern was that Reclamation did not involve Forum in the process for the development of the cooperative agreement. The Forum approved the additional funding for the Huntington-Cleveland Project with the understanding that Reclamation is to execute a new cooperative agreement and to work with Forum's Work Group on this agreement and develop a revised 'request for proposal' (RFP) process for future projects.

- The Forum decided to recommend to the AC that the same funding level, as last year, be requested for USBR and USDA (\$17.5 million for USBR and 2.5% of EQIP for USDA) for Fiscal Year 2007. However, the Forum adopted a motion to recommend to the AC to request that the BLM funding level for salinity control projects be increased by \$700,000. This would increase the BLM funding for the specific salinity control projects to \$1.5 million and the total funding for BLM's Soil, Air, and Water Program be increased to about \$5.9 million.

During the AC meeting, the federal agencies (USGS, USDA, USFWS, EPA, BLM, and Reclamation) provided their accomplishment reports to the AC. The main issues discussed at the AC meeting were as follows:

- The AC elected Mr. Gerald Zimmerman (AC member from California) as the Chair and Patrick Tyrrell (AC member from Wyoming) as the Vice-Chair of the AC;
- The AC approved the Forum's recommendation on the cost share rate as mentioned earlier;
- The AC approved Forum's recommendation on the FY 2008 budget level for each of the federal agencies; and
- The AC appointed Mr. Rod Kuharich (AC member from Colorado) as the Chair of Cost-share Rate Committee and Mr. Steve Miller (Work Group member of Colorado) the Chair of Cost-share Rate Sub-committee.

The Forum, upon the conclusion of its meeting, decided that the next Colorado River Basin Salinity Control Forum and Work Group meetings would be hosted by the State of Wyoming in June 2007.


State Water Resources Control Board's Notice of Opportunity for Public Comment on the proposed Federal Clean Water Act Section 303(d) List of Water Quality Limited Segments for California

The State Water Resources Control Board (SWRCB) recently published a Notice on a proposed revision to the Clean Water Act Section 303(d) list of water quality limited segments for California. In the notice, the SWRCB recommended that the listing of the Colorado River (Imperial Dam to California-Mexico) as water quality limited for selenium, and the All-American Canal as water quality limited for specific conductance, sulfate, and total dissolved solids. The SWRCB was expected to consider the list for adoption at its October 25th meeting.

Comments on the proposed listing were due by October 20th. Board staff prepared a comment letter, which was forwarded to the Agency Managers and agency technical staff for review and comment. Pursuant to the Board's direction at the October meeting, the draft letter was finalized and submitted to the SWRCB prior to the comment deadline. A copy of the final letter has been included in the Board folder. Because of the comments that were received from a number of entities, consideration of the All-American Canal was pulled off of the agenda; however, the recommendation regarding the Colorado River below Imperial Dam passed.

Radioactive Tailings Site at Moab, Utah

Included in the Board folder is a short article from the Salt Lake Tribune regarding the U.S. Department of Energy's recent release of a request for proposals (RFPs) for the cleanup of the Moab uranium mill tailings site. The RFP requests contractors to submit bids associated with removing nearly 12 million tons of radioactive tailings and moving them approximately thirty miles north to a repository site near Crescent, Utah.



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