

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

**June 12, 2007**

**ADMINISTRATION**

Approval of Board Meeting Minutes – April 11<sup>th</sup> and May 9<sup>th</sup>

Included in the Board folder is a copy of the April 11<sup>th</sup> and May 9<sup>th</sup> Board meeting minutes. Based upon Board member's review and comment, I am asking for approval and adoption of these meeting minutes.

2007 Board Meeting Schedule

Included in the Board folder is the revised Board meeting schedule for the remainder of 2007. Based upon Board member's review, I am asking for approval and adoption of the revised meeting schedule. The August meeting has been rescheduled from August 23<sup>rd</sup> to August 22<sup>nd</sup> since Urban Water Institute rescheduled its 14<sup>th</sup> Annual Southern California Urban Water Conference meeting to August 22-24, 2007, to be held at Marriott Hotel San Diego Del Mar, San Diego.

Appointments to the Board

On May 18<sup>th</sup>, Governor Schwarzenegger appointed Mr. Bill Knutson and Mr. Javier Saunders to the Colorado River Board of California. Both, Messrs. Knutson and Saunders represent the San Diego County Water Authority. Mr. Knutson was appointed as the member and Mr. Saunders was appointed as the alternate member. I am pleased to take this opportunity to welcome both of them to the Board and look forward to working with them in the future.

Fiscal Year 2007-08 Budget

As reported at the last Board meeting, both the Assembly Subcommittee No. 3 on Natural Resources and Environmental Protection and the Senate Subcommittee No. 2 on Resources, Environmental Protection and Energy have approved the Board's budget as recommended by the Governor. The Board's FY 2007-08 budget, as recommended by the Governor, along with the appropriate salary and benefit adjustments, totals \$1,607,000 and is funded 100 percent from reimbursements.

A copy of the Board's proposed FY 2007-08 Budget is included in the Board folder. I am asking for Board member's approval of the final FY 2007-08 budget and execution of the Standard Agreement No. 40 between the Board and the Six Agency Committee, which provides the funding for the Board's activities and operations.

**CONSENT ITEMS**

Approval of Lower Colorado Water Supply Project Water Applications

Work is continuing on the Lower Colorado Water Supply Project (LCWSP). Included as consent items are applications for LCWSP water totaling 116 acre-feet of water for current use and 69 acre-feet of future use annually. The Board’s staff has reviewed each of these applications and determined that these 22 parcels of land are eligible to receive LCWSP for the purposes indicated. Furthermore, the staff is not aware of any issues associated with any of these applications. Thus, the staff believes that these applications can be approved as a consent item.

The staff has received concerns regarding the two applications received from Mr. Lance A. Wagner. Mr. Wagner has applied for 34 acre-feet of LCWSP water for his two parcels of land (APN Nos. 0649 201 02 0000 and 0649 201 03 0000) located in Section 36, T5N, R24E, SBB&M. He has hired a developer, Howard Omdahl of Omdahl Development, to build a subdivision consisting of 79 lots for erecting manufactured homes. The Board’s staff initially advised Mr. Wagner that these two parcels of land are located within the service area of the Havasu Water Company and informed him that he does not need to apply for LCWSP water if the water is received through the Havasu Water Company. Mr. Wagner has indicated that his desire is to retain the services of the Chemehuevi Indian Tribe to deliver the water to his development, as well as, to provide sewer services.

Based upon the applications, the Board’s staff has determined that these two parcels of land are eligible to receive LCWSP water for the purpose requested. How the water is supplied to this development is not a determination that the Board needs to make.

For this ninth submittal to the Board, applications associated with 24 parcel of land, including the applications received from Mr. Wagner, have been received. The quantity of water associated with these applications is as follows:

**RECOMMENDED LCWSP APPLICATIONS**

<b>COUNTY</b>	<b>PARCELS</b>	<b>CURRENT USE (AF/YR)</b>	<b>FUTURE USE (AF/YR)</b>	<b>TOTAL (AF/YR)</b>
San Bernardino	20	112	99	211
<u>Imperial</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>8</u>
<b>TOTAL</b>	<b>24</b>	<b>116</b>	<b>103</b>	<b>219</b>

To date, the Board has recommended entering into subcontracts for LCWSP water associated with 574 parcel of land requesting a total of 5,482 acre-feet of LCWSP water annually. With the inclusion of today’s requests, a total of 5,701 acre-feet of water per year are being requested. Of that amount, 656 acre-feet of water are for current use and 5,045 acre-feet of water are for future use. The distribution of the total annual current and future use of water in the three counties is as follows: Imperial County – 92 acre-feet of current use and 1,911 acre-

feet of future use; Riverside County – 11 acre-feet of current use and 1,999 acre-feet of future use; and San Bernardino County – 553 acre-feet of current use and 1,135 acre-feet of future use.

The Board's staff is requesting that the Board approve the consent items and the request from Mr. Wagner for LCWSP water and that it recommend to the U.S. Bureau of Reclamation (Reclamation), with the approval of Resolution 2007-1, that the applicants are eligible to receive LCWSP water and that the City of Needles should offer a subcontract to each eligible applicant.

## **PROTECTION OF EXISTING RIGHTS**

### Colorado River Water Report

As of June 1, 2007, storage in the major Upper Basin reservoirs increased by 1,019,730 acre-feet and storage in the Lower Basin reservoirs decreased by 451,300 acre-feet during May 2007. Total System active storage as of June 6<sup>th</sup> was 33.746 million acre-feet (maf), or 57 percent of capacity, which is 1.095 maf less than one year ago (Upper Basin reservoirs increased by 0.338 maf and Lower Basin reservoirs decreased 1.433 maf).

May releases from Hoover, Davis, and Parker Dams averaged 16,670, 16,200, and 11,710 cubic feet per second (cfs), respectively. Planned releases from those three dams for the month of June 2007, are 16,000, 16,000, and 11,600 cfs, respectively. The June releases represent those needed to meet downstream water requirements including those caused by reduced operation of Senator Wash Reservoir.

As of June 6<sup>th</sup>, taking into account both measured and unmeasured return flows, the Lower Division states' consumptive use of Colorado River water for calendar year 2007, as forecasted by Reclamation, totals 7.443 maf and is described as follows: Arizona, 2.767 maf; California, 4.366 maf; and Nevada, 0.309 maf. The Central Arizona Project (CAP) will divert 1.529 maf, of which 0.249 maf are planned to be delivered to the Arizona Water Bank. The Metropolitan Water District of Southern California (MWD) will use about 0.643 maf, which is 10,000 acre-feet more than its 2006 use of mainstream water.

The preliminary end-of-year estimate by the Board staff for 2007 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 3.750 maf. This estimate is based on the collective use, through April 2007, 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

#### *2008 Annual Operating Plan for the Colorado River Reservoirs*

On June 15<sup>th</sup>, the first consultation meeting of the Colorado River Management Work Group will be held to begin development of the 2008 Annual Operating Plan for the Colorado

River System Reservoirs (2008 AOP). During the meeting the Work Group will review the first draft of the 2008 AOP that has been prepared by Reclamation.

The draft 2008 AOP contains the following Secretarial determinations:

- Releases from Glen Canyon Dam will, most likely, be governed by the objective minimum release of 8.23 maf; however, if the water storage in Lake Powell reaches 14.85 maf and if the active storage in Lake Powell is greater than the active storage in Lake Mead, releases larger than 8.23 maf will be made to equalize the storage in Lakes Powell and Mead.
- Releases from Hoover Dam will be made to meet downstream water demands under “normal conditions,” i.e., to meet Colorado River mainstream consumptive use demands of 7.5 maf.
- If there is apportioned, but unused, water in one of the Lower Division states it will be made available for use in the other Lower Division states in accordance with Article II(B)(6) of the Consolidated Decree in *Arizona v. California* and Section 1(B) of the Interim Surplus Guidelines.
- The Republic of Mexico will be able to schedule the delivery of 1.5 maf of water during calendar year 2008.

Additional consultation meetings will be held in order to finalize the recommended 2008 AOP by the end of the water year. When approved by the Secretary of the Interior, it will be sent to the Governors of each of the Colorado River Basin states.

#### *Central Arizona Project Aqueduct Canal Capacity Issue*

As we discussed at previous Board meetings, on March 26, 2007, the Board received an initial letter from the Central Arizona Water Conservation District (CAWCD) stating CAWCD’s intent to continue to divert more than 2,500 cubic-feet-per-second (cfs) in the Central Arizona Project (CAP) canal system, even though there is language in the 1968 Colorado River Basin Project Act (CRBPA), Section 301(a), that only allows diversions above 2,500 cfs in the event that there are flood control or equalization releases from Glen Canyon Dam. The letter further indicates that it is CAWCD’s opinion that clarifying language in the 1984 Hoover Power Plant Act superseded the intent of the CRBPA, through promoting operational efficiency and power management. In its letter, CAWCD also stated that it does “...not intend to operate the CAP in a manner that will cause Arizona’s Colorado River water use to exceed its legal entitlement.”

Based upon direction provided by the Board at the April Board meeting, a response letter was prepared and mailed to CAWCD on May 3, 2007. In the letter, several concerns were addressed concerning CAWCD’s current position regarding utilization of the available capacity of the canal system to divert water above 2,500 cfs. The letter stated that California is still of the opinion that the prohibition expressed in section 301(a) of the 1968 CRBPA is still applicable; and, furthermore, that California does not accept CAWCD’s proposition that subsequent

legislation, including the Hoover Power Plant Act, have modified the CRBPA prohibition. The Board's letter indicated its receptiveness to begin discussions with representatives of the State of Arizona, other Basin states, and CAWCD to discuss these issues in more detail. A copy of the Board's May 3<sup>rd</sup> letter has been included in the Board folder for reference and information.

On May 8<sup>th</sup>, I received a rather tersely worded letter from CAWCD indicating that its initial letter (March 26<sup>th</sup>) "...was not a proposal." CAWCD indicated that it did not believe that it needed to "...persuade [the Board] that our current and planned activities are in accordance with agreements, contracts, regulations and laws." CAWCD also indicated that it was not attempting to open discussions regarding this issue. In conclusion, CAWCD maintained that this is "...how we operate today, and we plan to continue."

Based upon the CAWCD May 8<sup>th</sup> letter, I prepared a response letter, dated June 1<sup>st</sup>, expressing significant concern regarding CAWCD's letter and its articulated positions. In the Board's letter, I referred to specific language included in CAWCD's original letter requesting Basin states input regarding the proposal; as well as maintaining that the current Basin states process associated with reservoir operations and Colorado River management is the appropriate forum to address issues of this kind. Again, I indicated that the Board and California agencies are more than willing to meet with CAWCD, the State of Arizona, and the other Basin states to discuss these important issues and develop potential solutions. A copy of the Board's June 1<sup>st</sup> letter has been included in the Board folder.

Additionally, on June 1<sup>st</sup>, representatives of the Upper Colorado River Basin States and the Upper Colorado River Commission sent CAWCD a letter expressing their concerns about the CAWCD proposal. A copy of the Upper Basin states' letter has been included in the Board folder. The Upper Basin states also strongly disagree with CAWCD's premise that the 1968 Colorado River Basin Project Act (CRBPA) prohibition of diverting more than 2,500 cfs was modified or lifted through subsequent legislation, i.e., the 1984 Hoover Power Plant Act. In support of their position, the Upper Basin states provided excerpts of language from congressional committee reports associated with the 1968 CRBPA legislation that clearly document that this issue was thoroughly discussed and understood by Congress prior to passage of the 1968 CRBPA. Finally, like the Board's letter, the Upper Basin states offered to meet with CAWCD and the other Basin states to discuss and resolve this issue.

#### *All-American Canal Lining Project Litigation Update*

On May 21<sup>st</sup>, the City of Calexico, California filed a petition for rehearing with the United States Ninth Circuit Court of Appeals. In the brief, filed with the Court, Calexico believes that its arguments and interests appeared to have not been heard by the Court in the lawsuit that was recently dismissed. On May 31<sup>st</sup>, the Ninth Circuit Court denied the petition for rehearing stating that Calexico lacked standing to bring its equal protection claim. A copy of a recent news article regarding Calexico's claim, as well as a copy of Calexico's petition for rehearing have been included in the Board folder.

## Basin States Discussions

As reported at the May Board meeting, representatives of the Basin states finalized the package of material commenting on the draft environmental impact statement (DEIS) related to Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lakes Powell and Mead DEIS and submitted it to Secretary Kempthorne on April 30, 2007. This package of material included the transmittal letter to Secretary Kempthorne and related agreements that describe the Basin states proposal, which includes: (1) an executed Agreement Concerning Colorado River Management and Operations; (2) Proposed Interim Guidelines for Colorado River Operations; (3) Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement; and (4) an executed Arizona-Nevada Shortage-Sharing Agreement. It was noted that the Water Delivery Agreement, which is also a component of the Basin states proposal, will need to be developed by the Basin states for consideration by the Department of the Interior prior to the release of the final environmental impact statement.

The Basin States Technical Committee will be meeting on June 20<sup>th</sup> to further develop the proposed Water Delivery Agreement and the concepts to be contained in it. Then on July 12<sup>th</sup> and 13<sup>th</sup>, the Committee will meet in San Diego to further discuss the contents of the Water Delivery Agreement and to reach agreement on the exhibits to the Forbearance Agreement.

The Basin states representatives will meet on June 25<sup>th</sup> in Denver, Colorado. It is anticipated that the discussions during the meeting will focus on:

- Reclamation's preferred alternative to be included in the final environmental impact statement on Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lakes Powell and Mead;
- The consultants report on "Planning for Long-Term Augmentation of the Water Supply of the Colorado River System;"
- The Water Delivery Agreement among the Lower Basin states and the Secretary of the Interior;
- The letters from representatives of the Basin states regarding CAWCD's ability to divert water above 2,500 cfs; and
- Issues regarding the 1944 Mexican Water Treaty and working with Mexico on Colorado River operations and management.

Regarding the issues associated with the 1944 Mexican Water Treaty and working with Mexico on Colorado River operations and management, the Basin states' transmittal letter to Secretary Kempthorne commenting on the DEIS recognized that how the United States would exercise its authority to reduce the quantity of water delivered to Mexico under the 1944 Mexican Water Treaty has not been resolved. The Basin states indicated that this is an extremely important issue and urged the United States to reduce the quantity of water delivered to Mexico in years that there are shortages in the Lower Basin consistent with the assumptions contained in

the DEIS, as well as in other appropriate circumstances. Also, the Basin states indicated their support for the participation of Mexico in the ICS program at some time in the future, provided that Mexican participation is addressed in the context of other River operation matters and is part of a comprehensive arrangement between the two nations. The Basin states reiterated their support for implementation of projects that augment the available water supply in the Colorado River System and indicated that this must remain at the forefront of the Basin states' and Interior's agendas. These augmentation projects may include exchanges of non-Colorado River System among the Lower Division states and possibly between entities within the United States and Mexico.

### Colorado River Endangered Fishes Recovery Goals

Recently, the U.S. Fish and Wildlife Service (USFWS) announced that it was initiating a review of the recovery goals for the four endangered 'big river' fishes of the Colorado River Basin (i.e., razorback sucker, Colorado pikeminnow, humpback chub, and bonytail). This five-year recovery plan review is mandated by the Endangered Species Act (ESA). The USFWS is looking for information or data that could be utilized in modifying or refining the recovery goals and objectives for these species. Comments regarding the review and the species recovery goals were due on May 31<sup>st</sup>.

Board's staff has prepared a letter providing comments for consideration by the USFWS during its review process. First, the Board emphasized that the native fish activities underway through the Lower Colorado River Multi-Species Conservation Program should be acknowledged in the revised recovery goals. Second, the Board requested that the Lower Basin State wildlife resources agencies be included in the review process. Third, the Board suggested that the lead and responsibility for preparation of the revised recovery goals should be equally shared between Regions 2 and 6 of the USFWS; thereby, including the perspective of the Lower Basin and identifying meaningful activities that can be implemented in the Lower Basin's aquatic habitats. Finally, the Board expressed opposition to any approach that seeks to designate "distinct population segments" leading to the down- or de-listing of populations of the endangered fishes in portions of their range, but not rangewide. Generally, the Board advocated the establishment and use of a comprehensive basin-wide recovery goals development and implementation process; rather than the current independent piece-meal approach that has existed since the species were originally listed. If recovery of these species is to be achieved, it will, in all likelihood, require the close coordination and cooperation of both regions of the USFWS, all seven Basin state wildlife resources agencies, as well as the participation of all interested and affected stakeholders in the Basin. A copy of the Board's comment letter is included in the Board folder.

## **WATER QUALITY**

### Colorado River Basin Salinity Control Forum Meeting, Jackson, Wyoming, June 4-6, 2007

The Colorado River Basin Salinity Control Forum (Forum) and the Forum's Work Group meetings were held in Jackson, Wyoming, from June 4<sup>th</sup> through June 6<sup>th</sup>. The main purpose of

the Work Group meeting was to review the Forum's meeting agenda and prepare its report to the Forum and review any recommendations to be presented. The Forum's meeting was held on June 5<sup>th</sup> and June 6<sup>th</sup>.

During the Forum meeting, the federal agencies (USDA, BLM, USGS, USEPA, and USBR) provided their reports to the Forum. The reports included the status of the 2008 proposed federal budget, and federal salinity control projects and activities in the Colorado River Basin.

A summary of the major issues discussed at the Forum meeting included the following:

- Forum's Budget – The Forum approved a 5% budget increase for FY 2007-08. Also, the Forum approved a 25% increase in state assessments over the next three years (10% for FY 2007-08, 10% for FY 2008-09 and 5% for FY 2009-10).
- Cost-Share Rate Issue – The Advisory Council's Cost-Share Rate Committee reported to the Forum on its findings and recommendations regarding the Natural Resources Conservation Service's (NRCS) proposed cost-share rate for the Environmental Quality Incentives Program (EQIP). NRCS had expressed its intention to increase the producers share for EQIP projects to 50 percent. Historically for salinity control program, the producers share has been about 25 percent. The Cost-Share Rate Committee's proposal provides for 50% on the cost of the project's physical components and incentives for salt removal as well as timely implementation of the projects as a benefit to the Lower Basin states. Also, this proposal provides for an incentive in participating in Irrigation Management Practices. With this proposal, the cost-share rate for the producers would vary between a minimum of 25% to a maximum of 50%. The Forum recommended that the Work Group work with the NRCS to finalize the proposal and report to the Advisory Council at its October meeting.
- 2008 Triennial Review Report – The Work Group recommended a schedule for preparation of the 2008 Triennial Review. The Forum intends to adopt the 2008 Review at its fall meeting in 2008. However, the first draft of the 2008 Triennial Review will be presented to the Forum at its meeting in spring of 2008.
- Oil Shale Research, Development and Demonstration Projects – The Forum directed the Work Group to review the Environmental Impact Statement (EIS) reports and analyze the impacts and work with the BLM to develop recommendations on behalf of the Forum.
- Pond Development – A number of unlined ponds are currently being constructed over Mancos Shale deposits, especially in Colorado in the Grand Junction area. The Forum expressed its concern over the development of these unlined ponds, which further contributes to the salt-loading in the Colorado River system. The Forum decided to send letters to the water quality agencies in each of the Upper Basin states, as well as the counties and water districts in southwestern Colorado expressing the Forum's concerns with this type of development. Also, the Forum directed the Work

Group to look further into the issue and its impact on the salinity of the Colorado River and to provide its recommendations to the Forum at its next meeting on how the potential impacts could be mitigated.

- Paradox Project – The USBR is in the process of conducting studies related to development of alternative methods for implementing the Paradox Project. The Forum directed the Work Group to work with Reclamation on this study and to provide progress reports to it.
- Reclamation’s Basin-Wide Program Review – Reclamation provided a “Plan of Study” for review of the existing Basin-Wide Salinity Control Program that it is implementing. The objective of this review is to document the current practices and seek input from Work Group and the Forum to make changes to the current program. Also, Reclamation intends to develop manuals and procedures for program implementation upon completion of this review. The Forum directed the Work Group to become actively involved in this review and to provide progress reports to it.

State Regional Water Quality Control Board Colorado River Basin Region, 2007 Triennial Review of the Basin Plan

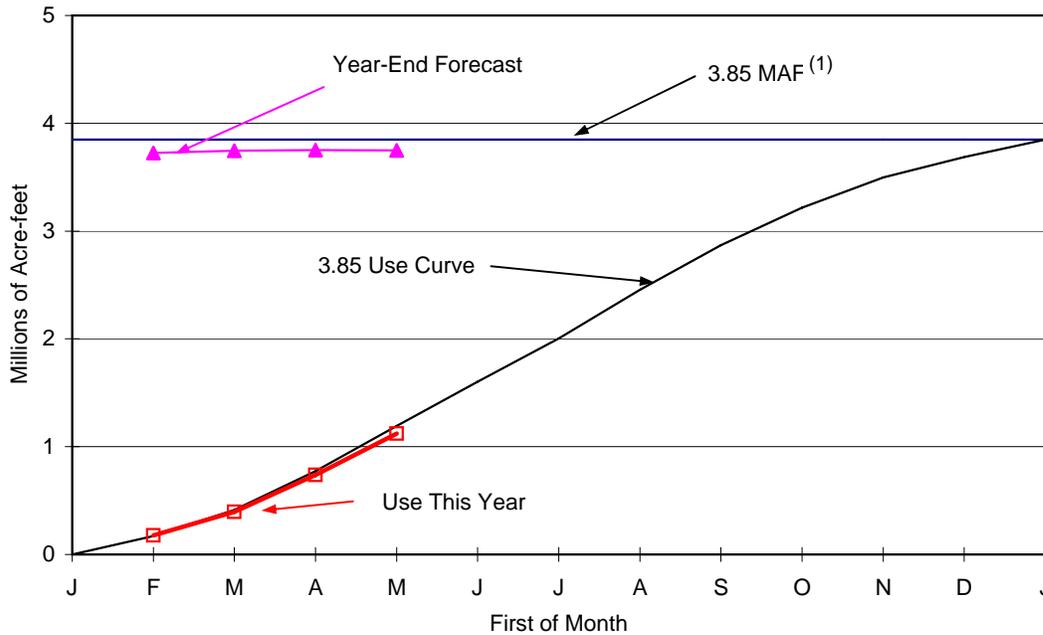
On May 18<sup>th</sup>, the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board), released a public notification that it was initiating its triennial review of the Basin Plan, pursuant to Section 303 of the federal Clean Water Act. Consequently, the Regional Board staff has prepared a draft list of potential water quality problems that may be addressed during the review process. Currently, the Regional Board is seeking public comments associated with this draft list, as well as other issues that interested stakeholders identify. The public comment period associated with the review of the Basin Plan has been extended from May 21<sup>st</sup> through July 20<sup>th</sup>. Copies of the Regional Board’s public notice and the draft list of potential issues are included in the Board folder for review and comment by the Board members and agencies. I encourage each of the agencies to submit comments on the triennial review of the Basin Plan, as appropriate.

Moab Uranium Mill Tailings Removal Project Update

Utah Congressman Jim Matheson has proposed an amendment to the defense bill that would require the U.S. Department of Energy (DOE) to accelerate its proposed timeframe for removal and relocation of the Moab uranium mill tailings. The amendment would require DOE to fully remove and relocate the mill tailings by 2019. DOE had recently estimated that it could not fully complete the removal and relocation of the 16 million tons of radioactive materials until approximately 2028. A copy of a short news article describing Representative Matheson’s amendment is included in the Board folder.

  
Gerald R. Zimmerman  
Executive Director

**FIGURE 1**  
**JUNE 1 FORECAST FOR 2007 YEAR-END COLORADO RIVER WATER USE**  
**BY THE CALIFORNIA AGRICULTURAL AGENCIES**



Forecast of Colorado River Water Use by the California Agricultural Agencies (Millions of Acre-feet)			
Month	Use as of First of Month	Forecast of Year End Use	Forecast of Unused Water (1)
Jan	0.000	-----	-----
Feb	0.178	3.726	-0.020
Mar	0.396	3.746	-0.040
Apr	0.738	3.751	-0.045
May	1.121	3.750	-0.044
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			
Jan			

(1) The forecast of unused water is based on the availability of 3.657 MAF under the first three priorities of the water delivery contracts. This accounts for the: 81,940 af of conserved water available to MWD under the 1988 IID-MWD Conserv. agreement and the 1989 IID-MWD-CVWD-PVID Agreement as amended; 60,000 af of conserved water available to SDCWA under the IID-SDCWA Transfer agreement as amended; 14,500 af of water IID and CVWD are forbearing to permit the Secretary of the Interior to satisfy a portion of Indian and Miscellaneous present perfected rights use; 35,450 af of water IID is forbearing to pay back Colorado River Water Delivery Agreement Exhibit C overruns; 1,000 af of water IID is conserving to create Intentionally Created Surplus in Lake Mead. As USBR is charging disputed uses by Yuma Island pumpers to Priority 2, the amount of unused water has been reduced by those uses --0.008 maf. The CRB does not concur with USBR's viewpoint on this matter.