

Minutes of Regular Meeting
COLORADO RIVER BOARD OF CALIFORNIA
Wednesday, September 10, 2008

A Regular Meeting of the Colorado River Board of California (Board) was held in the Big Bear Room, at the Ontario Airport DoubleTree Hotel, at 222 N. Vineyard Avenue, Ontario, California, Wednesday, September 10, 2008.

Board Members Present

Dana B. Fisher, Jr. Chairman
John V. Foley
W. D. 'Bill' Knutson
Henry Merle Kuiper
John W. McFadden

John Pierre Menvielle
Mark Stuart, Designee
Department of Water Resources

Board Members and Alternate Absent

Terese Maria Ghio
Thomas M. Erb
James B. McDaniel

Christopher G. Hayes, Designee
Department of Fish and Game

Others Present

Steven B. Abbott
Gary A. Bryce
Dave Fogerson
William J. Hasencamp
Michael L. King
Russell Kitahara
Thomas E. Levy
Brad Luckey
Jan P. Matusak
Douglas N. Noble
David R. Pettijohn
Halla Razak
Steven B. Robbins
John L. Scott

Jack Seiler
Peter S. Silva
Ed W. Smith
William H. Swan
Peter E. von Haam
Bill D. Wright

Abbas Amirteymoori
J.C. Jay Chen
Christopher S. Harris
Gary E. Tavetian
Mark Van Vlack
Gerald R. Zimmerman

CALL TO ORDER

Chairman Fisher announced the presence of a quorum, called the meeting to order at 10:05 a.m.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Chairman Fisher asked if there was anyone in the audience who wanted to address the Board on items on the agenda or matters related to the Board. Hearing none, Chairman Fisher moved to the next agenda item.

ADMINISTRATION

Approval of Minutes

Chairman Fisher requested the approval of the August 13th meeting minutes. Mr. Menvielle moved the August 13th minutes be approved. Mr. Knutson seconded the motion. Unanimously carried, the Board approved the August 13th meeting minutes.

AGENCY MANAGERS' MEETING

Mr. Zimmerman reported that the agency managers met August 27th, to discuss Reclamation's proposed rule regulating the use of Lower Colorado River water without a valid entitlement. The agency managers also discussed and received an update on the International Boundary and Water Commission discussions regarding potential Bi-National Projects, the Yuma Desalting Plant Pilot Project Operations, the Lake Powell Pipeline, the Navajo-Gallup Water Supply Project Pipeline, and the 2009 Annual Operating Plan for the Colorado River System Reservoirs.

PROTECTION OF EXISTING RIGHTS

Colorado River Water Report

Mr. Harris reported that as of September 2nd, the reservoir storage in Lake Powell was 14.795 million acre-feet (maf) or 61 percent of capacity. The water surface elevation was 3,632 feet. The storage in Lake Mead was 11.953 maf, or 46 percent of capacity. The water surface elevation was 1,104 feet. Total System storage was 34.535 maf, or 58 percent of capacity. Last year at this time, there was 32.642 maf of water in storage, or 55 percent of capacity. Total System storage was about 2 maf more than the storage at this time last year.

Mr. Harris reported that precipitation from October 1st to September 1st, was 105 percent of normal, and there was no measureable snowpack water equivalent. The observed April through July inflow into Lake Powell for Water Year 2008 was 8.844 maf, or 111 percent of normal. The projected 2008 Water Year unregulated inflow into Lake Powell was about 12.543 maf, or about 104 percent of normal.

Mr. Harris reported that Reclamation's estimated consumptive use (CU) for the State of Nevada is under its entitlement of 300,000 acre-feet (280,000 acre-feet); and for Arizona, the CU is projected to be slightly over its basic entitlement of 2.8 maf (2.817 maf); and for California the

CU is also projected to be over its apportionment of 4.4 maf (4.505 maf). The total projected CU in the Lower Basin is expected to be about 7.602 maf.

State and Local Water Reports

Mr. Mark Stuart, of the California Department of Water Resources, reported on the storage conditions of the State Water Project (SWP) in California. Water storage in Lake Oroville, the largest reservoir north of the Delta, is down to 32 percent of capacity. Water storage in the San Luis Reservoir, the largest reservoir south of the Delta, is down to 22 percent of capacity. At the current rate of depletions the record low of 1977 will be broken. If next season doesn't fill the SWP reservoirs, then as a precaution, discussions are underway to initiate the emergency water bank for 2009.

Mr. Foley of The Metropolitan Water District of Southern California (MWD), reported that over the past two years just over 1 maf has been taken from the MWD storage system, there remains about 1.1 maf in storage. The three main surface storage reservoirs including Diamond Valley Lake is down about 530,000 acre-feet. Mr. Foley added that the MWD storage system needs to be replenished.

Mr. James McDaniel, of the Los Angeles Department of Water and Power (LADWP), reported that the Eastern Sierra winter snows had not started and there was nothing to report. However, groundwater contamination in the San Fernando ground water basin had restricted the amount of water pumped from the basin. The LADWP, in conjunction with MWD, is working on an emergency well head pilot treatment project to restore groundwater production capacity. The well head treatment project is anticipated to be online by the summer of 2009.

Colorado River Operations

2009 Annual Operating Plan for Colorado River System Reservoirs

Mr. Zimmerman reported that the second consultation meeting of the Annual Operating Plan (AOP) work Group was held August 26th, in Las Vegas. The Work Group received a draft of the 2009 AOP. The current draft is available on Reclamation's website: http://www.usbr.gov/uc/water/rsvrs/ops/aop/AOP09_draft.pdf.

Mr. Zimmerman reported that based on current runoff projections and water level elevation in Lake Powell, the 2009 AOP would have Lake Powell operated in the Upper Balancing Tier with a release of 8.23 maf, unless the April 2009 24-Month Study projects water surface elevation of Lake Powell to be above equalization trigger by the end of the water year. Lake Mead is currently anticipated to be operated under the Intentionally Created Surplus (ICS) condition with releases from Hoover Dam to satisfy downstream consumptive use (CU) demand of 7.5 maf plus the delivery of ICS water requested. Unused apportionment, if available, would be apportioned in accordance with Article II(B)(6) of the Consolidated Decree in *Arizona v. California*. Mexico will be able to schedule delivery of 1.5 maf during the 2009 calendar year. The final consultation meeting for the 2009 AOP is scheduled to be held on October 7th in Las Vegas, Nevada. The 2009 AOP is expected to be finalized by the end of the calendar year.

Yuma Desalting Plant Pilot Project Operations

Mr. Zimmerman reported that the Central Arizona Project (CAP), Southern Nevada Water Authority (SNWA), and MWD have participated in discussions with Reclamation to implement a pilot project to run the Yuma Desalting Plant (YDP) at up to one-third capacity, producing about 30,000 acre-feet of blended water to be returned to the Colorado River. The blended water would consist of YDP product water and Welton-Mohawk Irrigation Drainage District return flow. The water returned to the Colorado River would be treated as System Efficiency, Intentionally Created Surplus (ICS) water and would be credited to the account of those agencies funding the YDP Pilot Project. The tentative participation of the non-federal partners that have agreed to pursue funding the Pilot Project are MWD at sixty percent, SNWA at thirty percent, and CAP at ten percent. The non-federal partners have also agreed to fund environmental impact monitoring in the Limitrophe and Cienega de Santa Clara during the term of the Pilot Project.

Mr. Zimmerman reported, that associated with the final implementation of the proposed YDP Pilot Project, four agreements are being drafted: 1) a contributed funds agreement between Reclamation and the funding partners, 2) water delivery agreements between Reclamation and each non-federal partner, 3) a forebearance exhibit to be attached to the December 2007 Forebearance Agreement and to be executed by all of the parties to that Agreement, and 4) an environmental monitoring funding agreement among all of the non-federal funding partners.

There were discussions indicating that staff of the participating agencies have agreed to seek approval from their respective Boards, and that the Boards have not yet taken action to officially participate in the proposed YDP pilot project.

Status of Reclamation's Rule-Making Process for the Proposed Rule Regulating the Use of Lower Colorado River Water Without an Entitlement

Mr. Zimmerman reported that Reclamation published a proposed rule in the *Federal Register* on July 16th. The proposed rule establishes a process for identifying unauthorized uses, and a notice and appeal process for those users/entities identified as unauthorized users. Reclamation has held a series of public informational meetings along the Lower Colorado River, in Laughlin, Nevada, Parker and Yuma, Arizona, and Blythe, California. The meetings were informational and were not intended to solicit comments. Board staff attended the meetings in Parker and Yuma, Arizona, and Blythe, California.

Mr. Zimmerman reported that comments on the Reclamations proposed rule were due by September 15th. During the meeting direction was given to Board staff in preparing comments on Reclamation's proposed rule. Also, a conference call was scheduled for Thursday, September 11th, to further discuss the comments to be submitted by the Board prior to the comment deadline.

Mr. Kuiper moved that provided the six agencies come together on a consensus letter, the Board submit comments to Reclamation regarding its proposed rule. Mr. Menvielle seconded the motion, unanimously carried the Board approved sending a consensus letter commenting on Reclamation's proposed rule.

Mr. Zimmerman added that, included in the Board folder is a copy of the Upper Colorado Commission's letter to Reclamation supporting the timely promulgation of the proposed rule.

U.S. Department of the Interior's News Release Announcing Reclamation Award of a \$98.3 Million Contract for the Drop 2 Reservoir/Water Delivery Project

Mr. Zimmerman reported that the Department of the Interior released a news release announcing the award of \$98.3 million dollars for the construction of an 8,000 acre-foot reservoir near the Drop 2 structure, along the All-American Canal. The inlet/outlet structure from the All-American Canal into the Drop 2 Reservoir is planned to handle flows of up to 1,800 cubic feet per second. The project is expected to be completed by August, 2010.

Reclamation Response to Pacific Institute Comment Letter Regarding the Drop-2 Reservoir

Mr. Zimmerman reported that on September 2nd, Reclamation responded to a June 4th letter from the Pacific Institute that raised a number of questions and concerns regarding the delivery of water and cost issues associated with the Drop 2 Reservoir Funding Agreement. The Pacific Institute questioned the logistics of the water transfer agreement and whether the project would be completed if the funding turned out to be insufficient to construct the facility. Both Reclamation's and the Pacific Institute's letters were included in the handout materials.

Basin States Discussions

Mr. Zimmerman reported that meetings have been scheduled for both the Lower Basin states and the seven Basin states. The Lower Basin states are scheduled to meet on September 23rd, in Las Vegas, Nevada. The seven Basin states are scheduled to meet October 2nd, in Los Angeles, California.

Mr. Zimmerman reported that the items on the agenda for the meetings include:

- Status of the International Boundary and Water Commission/states/federal discussions with Mexico.
- The Yuma Desalting Plant pilot project operations.
- Status of Lake Powell pipeline efforts.
- Status of the All-American Canal lining and Drop 2 Reservoir.
- Status of the Navajo-Gallup Water Supply Project legislation.
- Reclamation's proposed Rule Regulating the use of Lower Colorado River water without an Entitlement.

Senator John McCain's Letter to Senator Wayne Allard Regarding the 1922 Colorado River Compact

Mr. Zimmerman reported that recently, Senator John McCain was quoted in the press suggesting that the Colorado River Compact be "renegotiated". Senator McCain followed up with a letter to Senator Allard, of Colorado, clarifying what his remarks were intended to mean. However, several Colorado water users wrote a letter to Senator Ken Salazar, of Colorado, expressing their concerns regarding Senator McCain's reported comments. Both letters are

included in the Board folder.

Seven Basin States' Governors' Representatives' Letter to Senators Bingaman and Domenici Regarding Proposed Modifications to S. 1171/ S. 3213 (Navajo-Gallup Legislation)

Mr. Zimmerman reported that the Basin states letter with proposed bill language was sent to New Mexico Senators Bingaman and Domenici outlining proposed modifications to Senate Bills 1171 and 3213. The proposed changes were the culmination of discussions among the seven Basin states and represents language that all seven Basin states agree. The Basin states comments address water use accounting in New Mexico and Arizona and indicates that nothing in the Act establishes any precedent for future transfers or expands the Department of the Interior's role in management of the Colorado River. It is anticipated that if Senate Bills 1171 and 3213 are heard on the floor of the Senate this year, the Basin states comments would be included in the legislation as it moves forward. A copy of the Basin states' letter and attached bill language was included in the Board folder.

ENVIRONMENTAL ISSUES

Status of the Grand Canyon Trust v. U.S. Bureau of Reclamation, et al Lawsuit

Mr. Gary Tavetian, of the California Attorney Generals office reported that on August 29th, the U.S. District Court in Phoenix, Arizona, held a hearing on counts one through five of the *Grand Canyon Trust v. U.S. Bureau of Reclamation, et al*. The federal Court discussed the various motions seeking to end the case. The Court asked for further briefings on eight questions. The U.S. Bureau of Reclamation (Government) submitted a brief, responding to the federal Court's questions, on September 9th. The Basin states and the other interveners filed a brief, also on September 9th, joining into the Government's Response to the federal Court's Request for Supplemental Briefing.

WATER QUALITY

Status Report on PG&E Topock Station Chromium VI Contamination Investigation and Remedial Activities

Mr. Amirteymoori reported to the Board regarding the Chromium VI contamination at the PG&E Topock Station near the Colorado River. Mr. Amirteymoori summarized the background including the history, basic geology, hydraulics, and over-view of the location. He discussed the evolution of the project and the framework regulating the cleanup of the Chromium VI. He also discussed the various stages of the Interim Measures employed to address the Chromium VI contamination and tools developed to gage the performance of the remediation methods. He discussed the details of the monitoring efforts and reported on the cleanup results of the Interim Measures: including charts and graphs of the various geologic/hydraulic layers underlying the Topock Station. He discussed the details of the corrective measures identified in the investigation and employed in the Interim measures. The regulation framework included cleanup requirements under the Resource Conservation and Recovery Act, the Comprehensive

Environmental Response, Compensation, and Liability Act, and the California Department of Toxic Substances Control (DTSC) regulations. How the regulatory agencies are working together with stakeholders to guide and monitor the cleanup process through the formation of the Consultative Work Group. Also, DTSC recently formed the Topock Leadership Consultative Work Group to further oversee and guide the process. Mr. Amirteymoori added that the Advisory Board had been meeting every other month and would be meeting every four months. He will be updating the Board as the process continues.

EXECUTIVE SESSION

Pursuant to the provisions of Article 9 (commencing with section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, and Sections 12516 and 12519 of the Water Code, Chairman Fisher announced he would like to hold an executive session to discuss negotiations with the other Colorado River Basin States and Mexico, and then excused everyone who was not a Board member, or his/her alternate, nor on the staff on an agency member of the Board.

Chairman Fisher recessed the Board on 11:29 a.m. to hold an executive session. Chairman Fisher reconvened the Board meeting on 12:40 p.m. and announced that there was no action resulting from the closed session.

OTHER BUISNESS

Next Board Meeting

Chairman Fisher announced that the next meeting of the Colorado River Board will be held on Wednesday, November 12, 2008 at 10:00 a.m., at the Ontario Airport DoubleTree Hotel, 222 North Vineyard Avenue, Ontario, California.

There being no further items to be brought before the Board, Chairman Fisher asked for a motion to adjourn. Mr. Kuiper moved the Board meeting be adjourned. Mr. Knutson seconded the motion, and with unanimous approval the Board meeting was adjourned at 12:41 p.m. on September 10, 2008.



Gerald R. Zimmerman
Executive Director