

Executive Director’s Report to the Colorado River Board of California

August 9, 2017

ADMINISTRATION

Minutes of the June 14, 2017 Meeting of the Colorado River Board

A draft of the minutes from the June 14th Board meeting held in Ontario, California, has been prepared and is included for Board member review and comment, and is proposed for adoption at the August 9th Board meeting.

COLORADO RIVER BASIN WATER REPORT

As of July 31st, the water level at Lake Mead was at 1,079.18 feet with 9.94 million acre-feet (MAF) of storage, or 38% of capacity. The water level at Lake Powell was at 3,634.76 feet with 15.39 MAF of storage, or 63% of capacity. As of July 30, 2017, the total system storage was 31.82 million acre-feet, or 57% of capacity, which is about 2.6 MAF more than the total system storage at this time last year.

As of August 1, 2017, the Upper Colorado River basin reservoirs, excluding Lake Powell, ranged from 94% of capacity at Fontenelle in Wyoming, 94% of capacity at Flaming Gorge in Wyoming and Utah, 97% of capacity at Morrow Point and 90% of capacity at Blue Mesa in Colorado, and 82% of capacity at Navajo in New Mexico. As of July 31st, the April-July unregulated inflow forecast for Lake Powell is at 8.15 MAF, or 113% of normal. The unregulated inflow into Lake Powell for Water Year-2017 is 12.21 MAF, or 114% of normal.

COLORADO RIVER BASIN PROGRAM REPORTS

2018 Annual Operating Plan

The second consultation meeting for the 2018 Annual Operating Plan (AOP) was held on July 27th at the McCarran Airport in Las Vegas, Nevada, and was also available via webinar. The U.S. Bureau of Reclamation (Reclamation) reported on the snow and runoff conditions for Water Year-2018, noting that the snow accumulation season got off to a slow start in the fall but increased rapidly in December 2016. The snow pack peaked on March 10, 2017, which is typically a month earlier than normal. The peak inflow into Lake Powell occurred on June 13th and was 60,600 cubic feet per second. Lake Powell reached a maximum elevation of 3,635.8 feet on July 11, 2017. Reclamation reported that the Upper Green River Basin accumulated a record-breaking snowpack that helped bolster the Basin’s overall snowpack and runoff forecasts.

Based on the July 2017 24-Month Study Report, the most probable operational tier for Lake Powell in 2018 is the Upper Elevation Balancing tier, with a release of 9.0 MAF. The minimum probable inflow forecast, which was based on the April 2017 modeling, also projects Lake Powell operations being in the Upper Elevation Balancing Tier with a 9.0 MAF release. Under the maximum probable inflow forecast, the operating tier for 2018 would be in the Equalization tier with a projected release volume of 14.4 MAF. These three hydrologic scenarios will be updated in the August 24-Month Study Report. It is important to note that, pursuant to the 2007 Interim Guidelines, the August 24-Month Study Report is utilized to determine the official operating tiers for Lakes Powell and Mead for 2018, and the results will be updated and documented in the final version of the 2018 AOP. Reclamation has scheduled a “roll-out” webinar for the August 24-Month Study Report for August 15th at 1:00 p.m., Pacific. Immediately following the webinar, Reclamation plans to post the August 24-Month Study Report and webinar presentation slides on its Lower Colorado Region webpage.

The final AOP consultation is scheduled to be held on September 13, 2017, in Las Vegas, Nevada, and will also be available by webinar. The second draft of 2018 AOP has been posted on Reclamation’s webpage at https://www.usbr.gov/lc/region/g4000/AOP2018/AOP18_draft.pdf. A copy of Reclamation’s presentation from the second consultation meeting on July 27th has been posted at https://www.usbr.gov/lc/region/g4000/AOP2018/2018AOP_2017-07-27_Slides-2.pdf.

Status of Minute No. 323 to the 1944 U.S./Mexico Water Treaty

Currently, the federal governments of the United States and Mexico are on track to execute the successor Minute—Minute No. 323—to Minute No. 319 (M319) in mid- to late-September 2017. As has been discussed at previous Board meetings, the terms and conditions of Minute 323 (M323) have not been substantively modified since late-2016. Because of the diplomatic protocol prohibiting distribution of the draft M323 prior to signing, representatives of the U.S. International Boundary and Water Commission, Reclamation and the Basin States have developed a M323 “Key Terms” document that describes the elements included in the proposed Minute. A copy of the Key Terms document has been included in the Board materials.

Generally, as described in the Key Terms document, Minute 323 is intended to accomplish the following—

- Builds upon and extends provisions of M319;
- Acts as an interim agreement that would extend through the remaining period of the 2007 Interim Guidelines and expire on December 31, 2026;
- Extends the operating provisions of M319 for both high and low reservoir conditions;
- Establishes a Mexican “Water Reserve” comprised of (1) emergency deferrals as developed in M318; (2) Revolving Account of up to 366,136 acre-feet; and (3) creation of intentionally created Mexican allocation (ICMA) via conservation activities and new projects;
- Establishes a Binational “Water Scarcity Contingency Plan” (WSCP) that would become effective upon the authorization and implementation of the Lower Basin Drought

Contingency Plan (LB DCP);

- Addresses salinity impacts and would implement cooperative efforts at SIB and real-time salinity monitoring;
- Establishes an average annual environmental water use of 45,000 acre-feet for habitat maintenance and restoration, and would provide funding for monitoring and restoration;
- Provides funding for Mexican water conservation projects to generate 229,100 acre-feet, of which 109,100 acre-feet will be made available to non-federal U.S. funders, 70,000 acre-feet funded by the U.S. for environmental water use, and 50,000 acre-feet funded by the U.S. to be utilized as a System contribution; and
- Establishes several work groups, including Hydrology, Salinity, Environmental, Flow Variability and Projects that will participate in implementing the terms and conditions of M323.

Since the July Executive Director's report to the Board, the Basin States have diligently worked with Reclamation and the U.S. Section of the International Boundary and Water Commission (IBWC) to develop final review drafts of the various domestic agreements that would be required for the execution and implementation of M323.

Like the actual Minute itself, these domestic agreements build upon those that were utilized to support the implementation of M319 and include the following:

- **Memorandum of Agreement on the Implementation of Minute No. 323**—The agreement on how the U.S. will implement the Minute and coordinate with the Basin States. Signatories include: DOI, Reclamation, USIBWC, seven Basin States and UCRC, and CAWCD, CVWD, IID, MWD and SNWA;
- **Interim Operating Agreement for Implementation of Minute No. 323**—Provides Reclamation with operational guidance for Minute implementation in accordance with the 2007 Interim Guidelines. Signatories include: Reclamation, six Basin States and the Board maintaining a consultative role, the UCRC, and CAWCD, CVWD, IID, MWD, City of Needles, PVID and SNWA;
- **2017 Lower Colorado River Basin Agreement for Binational Intentionally Created Surplus**—Allows Contractors to invest in projects in Mexico creating water supplies for use in the U.S. through creation, release and use of BICS, and provides necessary forbearance. Signatories include: ADWR, CRC of Nevada, and CVWD, IID, MWD, City of Needles and PVID; and while not a signatory, the Board maintains a consultative role regarding this agreement;
- **Contributed Funds Agreement for a Pilot Program for Conversion of Mexico's Water Reserve to Binational Intentionally Created Surplus**—Establishes a process for transfer of funds from U.S. contributors to fund the M323 Pilot Program (\$31.5M). Federal contributions total \$16.5M in exchange for 50 KAF system water and 70 KAF for environmental uses in Mexico. Non-federal contributions total \$15M in exchange for

109,100 acre-feet to be converted to BICS. Non-federal contributors include CAWCD, IID, MWD and SNWA; and

- **2017 Binational ICS Delivery Agreements**—These are agency-specific delivery agreements for each of the non-federal contributors and BICS recipients. Agencies with specific BICS delivery agreements include CAWCD, IID, MWD and SNWA.

Of these M323 domestic agreements, the Board’s Chairman would execute, on behalf of the Board, the “Memorandum of Agreement on the Implementation of Minute No. 323.” For the Board’s information, final review drafts of the M323 domestic agreements have been included in the Board materials.

Additionally, the U.S. drafting group recently finalized its work to develop the process that addresses M323’s “contingency” aspect related to the potential implementation of the proposed domestic Lower Basin Drought Contingency Plan (LB DCP) and thereby triggering the implementation of the Binational Water Scarcity Contingency Plan (WSCP) contained in Section IV of M323. As was reported in the July Executive Director’s Report to the Board, this process outlines a path forward for authorizing both the LB DCP and subsequent implementation of the Binational WSCP. This process has been encompassed in the “Agreement Regarding Notice from the Secretary of the Interior for the Purpose of Implementing Section IV of Minute No. 323,” also known as the “Triggering Agreement.” This agreement would be signed by the seven Basin States, including the Board, and the Secretary of the Interior. Pursuant to this agreement, the Secretary of the Interior would notify the U.S. IBWC Commissioner that the LB DCP is fully effective as authorized by U.S. federal law; and following that notification, the U.S. IBWC Commissioner would notify his Mexican counterpart and thereby initiate implementation of Section IV of M323 (i.e., the Binational WSCP).

Representatives of USIBWC and DOI recently met with staff of the Senate’s Foreign Relations Committee and provided another update and overview briefing on the status of both the proposed Minute No. 323 and its related domestic agreements. Additionally, USIBWC has reported that the final review draft of the Minute is moving through the U.S. State Department final review and approval process.

As was mentioned above, the U.S. State Department and Mexican Secretariat of Foreign Affairs office both have a diplomatic “close hold” protocol which prohibits distribution of the actual Minute until it has been executed by both countries. Consequently, boards, commissions and agencies that are now beginning to seek approvals related to the domestic agreements are utilizing the M323 Key Terms document and final review drafts of the domestic agreements in these approval processes. From the perspective of the Colorado River Board of California, staff will provide a thorough overview and briefing at the August 9th Board meeting, and then seek approval for the Chairman to execute applicable domestic agreements at the September 13th Board meeting.

Regarding execution of the Minute and its associated domestic agreements, the Mexican Section of the IBWC (CILA) has indicated that the signing ceremony for Minute 323 may be held in Mexico as the last Minute (M322) was signed in the United States. As all of the domestic agreements associated with M323 will also need to be executed concurrently with the Minute, there is discussion among the U.S. and Mexican Sections about the potential for shifting the signing ceremony to a U.S. location. The Colorado River Symposium in Santa Fe, New Mexico, in late-September has been suggested as a potential site for the signing ceremony. CILA Commissioner Salmon has indicated

that he will seek guidance from the Mexican federal government regarding the proposed location and date for the Minute 323 signing ceremony.

Finally, a draft Board resolution associated with M323 has been prepared for Board review and comment. The purpose of the Board resolution is to review and affirm the following—

- Board participation in the negotiation and development of Minute No. 323;
- The primary elements of Minute No. 323;
- The need for continued Board participation and consultation with respect to implementation of Minute No. 323; and
- Authorization for the Chairman to execute, on behalf of the Board, the “Memorandum of Agreement on the Implementation of Minute No. 323,” and the “Agreement Regarding Notice from the Secretary of the Interior for the Purpose of Implementing Section IV of Minute No. 323.”

A draft of the proposed Board resolution has been distributed with the Board hand-out materials for review and comment.

Status of Lower Basin Drought Contingency Planning Process

With the attention of the federal government, Basin states and agencies firmly focused on completion of M323, there has not been any recent activity associated with either the Lower Basin or Upper Basin drought contingency planning (DCP) efforts. However, it is anticipated that upon completion and execution of Minute 323, the Basin States and Reclamation would reconvene the DCP development processes with a target of reaching agreement on key terms as soon as is practicably possible.

Colorado River Basin Salinity Control Program

As an information item, Board staff has submitted the final review draft of the “2017 Review of Water Quality Standards for Salinity Colorado River System” (Review) to the State Water Resources Control Board for its review and adoption at an upcoming Board meeting. Each of the Basin States water quality agencies is undergoing a similar review and approval process. Concurrently, the Review has been distributed and is available for public review and comment. Comments are due on August 25th, and can be submitted to Board staff, who will then forward them on to the Forum’s Work Group for consideration. After the public review and comment process, and after the states have approved and adopted the standards set forth in the Review, the final Review will be submitted to the U.S. Environmental Protection Agency (EPA) for its adoption. This 2017 Review proposes no changes to the current numeric criteria at the three stations (i.e., Below Hoover and Parker Dams, and at Imperial Dam). Additionally, the Review contains a plan of implementation that would lead to an additional 63,500 tons of annual salinity control over the next three years. The salinity control program to date has controlled over 1.33 million tons of salt annually, and current program funding levels could control up to 1.66 million tons annually by 2035. A copy of the final review draft of the 2017 Review has been included in the Board handout materials.

GENERAL ANNOUNCEMENTS AND UPDATES

Washington, D.C. Updates

Appropriations Update

Before leaving for its August recess, the House passed a \$37.6 billion FY-2018 energy and water spending bill as part its four-bill minibuss appropriations package. The four-bill funding accord passed 235-192, with only five members from each party breaking ranks on the bill. The energy and water portion of the minibuss is \$203 million less than fiscal 2017 enacted spending levels but \$3.2 billion more than requested by the White House.

On July 20, The Senate Appropriations Committee advanced an energy and water bill that diverts sharply from the priorities of House lawmakers and President Trump. The measure provides \$38.4 billion to fund U.S. Department of Energy (DOE) programs, critical infrastructure projects administered by the Army Corps of Engineers and Bureau of Reclamation, and related agencies. The bill is \$629 million above the FY-2017 enacted level and \$4.1 billion above the President's request. It was approved 30-1. U.S. Army Corps of Engineers funding is increased to \$6.2 billion to improve and maintain flood control projects and ensure the viability of national and regional ports and waterways. The budget request sought a 17 percent cut for these activities.

On the same day, the Senate Appropriations Committee approved the FY-2018 Agriculture, Rural Development, Food and Drug Administration Appropriations Bill. The bill provides \$145.4 billion in discretionary and mandatory funding, \$4.85 billion above the President's budget request and \$7.9 billion below the FY-2017 enacted level. It contains \$20.525 billion in discretionary funding, \$352 million below the FY-2017 enacted level, and includes \$124.9 billion in mandatory funding. It was approved 31-0.

The House Appropriations Committee passed its version of the Agriculture spending bill earlier in July. The bill totaled \$20 billion in discretionary funding, which is \$876 million lower than the FY-2017 enacted level and \$4.64 billion above the President's budget request.

Department of the Interior Nominations

Mr. David Bernhardt was sworn in as Deputy Secretary of the Department of the Interior on August 1st. On July 25, the Senate approved his nomination by a vote 53-43, mostly along party lines. All Republicans present, four Democrats and one independent voted in favor.

On July 21, the Senate Energy and Natural Resources Committee held a hearing to consider the nomination of Ms. Brenda Burman, the White House's choice for Commissioner of the U.S. Bureau of Reclamation, and four other nominees within the purview of the Committee. A vote was held on August 3rd which moved Ms. Burman's nomination out of the Committee and to the full Senate for confirmation. If confirmed, Burman would be the first female to lead Reclamation.

On August 1st, Interior Secretary Zinke announced the nomination of Mr. Ryan Nelson, from Idaho, to serve as the Solicitor for the Department of the Interior. Mr. Nelson had previously served as an Assistant Attorney General in the Department of Justice's Environment and Natural Resources

Division, and most recently was serving as General Counsel for Melaleuca, Inc. an Idaho-based consumer goods company. Mr. Nelson's nomination is expected to be taken up by the Senate's Energy and Natural Resources Committee.

Department of Agriculture Nominations

On July 19, Mr. Sam Clovis, a former conservative radio host and co-chairman of Trump's presidential campaign, was tapped to a top research and economics post at the Department of Agriculture. The undersecretary's position, which is subject to Senate confirmation, oversees agencies such as the Agricultural Research Service and Economic Research Service. Clovis is a former economics professor at Morningside College in Sioux City, Iowa. He is currently a senior White House adviser to USDA.

Status of H.R. 23

The House passed HR 23, the "Gaining Responsibility on Water Act," by a vote of 230-190 on July 12. Congressmen Valadao and Nunes have introduced similar legislation in past. The House rejected an amendment from Rep. Mark DeSaulnier (D-Calif.) to require a review of how wastewater recycling technologies could help the Central Valley Project by a vote of 189-230. The House did approve the following amendments to H.R. 23 by voice vote:

- Rep. Jeff Denham's (R-Calif.) provision to set a timeline for the New Melones Reservoir study to be completed;
- A pair of amendments from Rep. Jim Costa (D-Calif.) directing the Bureau of Reclamation to study groundwater aquifers and mountain runoff in California; and
- An amendment from Rep. Steve Pearce (R-N.M.) to ensure water rights of federally recognized tribes are not affected by the bill.

Senate Energy & Natural Resources Subcommittee Hearing on Drought Preparedness

The Senate Energy and Natural Resources Subcommittee on Water and Power held a hearing on August 2nd, to examine increasing water security and drought preparedness through infrastructure, management and innovation. Mr. Thomas Buschatzke, Director of the Arizona Department of Water Resources, testified on Colorado River issues, including the Basin States on-going drought contingency planning efforts.

Christopher S. Harris
Executive Director