VRANESH AND RAISCH, LLP
ATTORNEYS AT LAW

1720 14th Street, Suite 200
P.O. Box 871
Boulder, Colorado 80306-0871

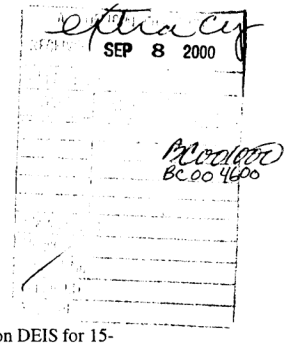
Telephone 303/443-6151
Telecopier 303/443-9586

Jerry W. Raisch
John R. Henderson
Michael D. Shimmin
Eugene J. Riordan
Paul J. Zilis

Julie S. Erikson

Asimakis P. Iatridis - Of Counsel
George Vranesh (1926 - 1997)

September 7, 2000



VIA FAX AND OVERNIGHT MAIL

Ms. Jayne Harkins
Lower Colorado Regional Office
Bureau of Reclamation
Attention BCOO-4600
P.O. Box 61470
Boulder City, Nevada 89006

United States Bureau of Reclamation
Lower Colorado Regional Office
P.O. Box 61470
Boulder City, Nevada 89006

Re: Colorado River Interim Surplus Criteria-Comments on DEIS for 15-year Agreement Governing Lower Basin Water Allocations-Reference DES 00-25

Ladies and Gentlemen:

Enclosed please find the comments of the Union Park Water Authority to the Draft EIS ("DEIS") concerning the 15 year agreement for the proposed Colorado River Interim Surplus Criteria affecting the Lower Basin ("15-year agreement"). The Union Park Water Authority and its attorneys did not receive a copy of the DEIS until September 6, 2000, though one was requested much earlier. The short time frame allowed for comment on this important document and the underlying decision is utterly inadequate to the importance of the topic to the Lower Basin and to the State of Colorado. The Union Park Water Authority requests an additional sixty (60) days beyond September 8, 2000, to make additional comments.

The Union Park Water Authority is composed of the following members, all of which have actual or projected water service responsibilities in the area of southern and southeastern metropolitan Denver and environs: Arapahoe County, Parker Water and Sanitation District, Rangeview Metropolitan District and Arapahoe County Water and Wastewater Authority. The Denver metropolitan area and surrounding communities lie to the east of the Rocky Mountains, but, for Colorado River Compact purposes, are considered a part of the Colorado River basin when Colorado River water is used east of the continental divide. The UPWA is attempting to develop the Union Park Reservoir Project ("Union Park Project"), designed to store surplus flows from the Upper Gunnison River for delivery to both the east and west slopes of Colorado. The Union Park Project is a high altitude, off-river storage project. The Gunnison is a major tributary of the Colorado River, and the basin of the Gunnison River lies entirely within Colorado.

The Union Park Project lies approximately 35 miles above the Aspinall Unit, a series of three federal reservoirs constructed under the authority of the Colorado River Storage Project Act ("CRSPA"). The largest of these is Blue Mesa Reservoir with a storage capacity of roughly a million acre-feet. The UPWA and its predecessor, Arapahoe County, have been in litigation for 12 years to attempt to obtain water rights to store water at the proposed Union Park Reservoir for municipal uses. UPWA believes that an annual average of 110,000 to 120,000 acre feet may be diverted in each year for use on both slopes. In that litigation, the U.S. Bureau of Reclamation, has now asserted the ability to utilize power generation, recreational and flood control rights at the Aspinall Unit to block new municipal appropriations in Colorado. The United States has not yet made similar assertions related to the other CRSPA units, being the Glen Canyon, Flaming Gorge or Navajo facilities, but plainly could. Since Colorado has the largest entitlement to the Upper Basin's Compact share, the inability of Colorado to develop has a major impact on the Upper Basin's ability to develop.

Comment Summary

1 The 15-year agreement, viewed in concert with related agreements concerning usage in California, affords major, new protections to municipal and industrial use in the Lower Basin, and California in particular. The needs of the Lower Basin cannot be viewed in isolation; without a concurrent commitment to protect municipal requirements in the Upper Basin, including Colorado, there is no protection for the Upper Basin. The DEIS fails to consider either the significance or the practical effect of vigorous, current federal efforts to prevent development of Upper Basin's Compact share for municipal use. The UPWA is deeply concerned that the 15-year agreement will be utilized to support the continuing efforts by the federal government to prevent additional usage of Colorado's Compact share on the Colorado front range. Without a concurrent commitment to develop water resources in the Upper Basin for actual use, the usage of surpluses generated in the Upper Basin will be permanently targeted for use in the Lower Basin for municipal and industrial use and for the protection of endangered species there and in Mexico.

The DEIS fails to discuss the federal government's assertion that its ownership of CRSPA facilities in the Upper Basin allows it to prevent the upstream development of Colorado's Compact share for municipal use. The protection of municipal and industrial uses in the Lower Basin, while actively attempting to prevent municipal use in the Upper Basin, is a threat to the long-term interests of the Upper Basin states. The interests and needs of both basins must be considered concurrently.

2 The DEIS's sensitivity analysis indicates that the threat to Lake Powell storage levels may be very great during periods of prolonged drought. The analysis contained in the DEIS appears to be founded on average flow conditions. A threat to Lake Powell storage levels is a threat to the Upper Basin states, including Colorado, and needs to be taken far more seriously.

3 The DEIS also fails to take into account the importance of groundwater banking of artificial surplus waters in the Lower Basin on Lake Powell storage levels. First, there is a question as to whether

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1: The DEIS recognized that future water development will be taking place in the Upper Basin. The computer model simulations of the Colorado River used in the DEIS incorporate an Upper Division depletion schedule, developed by the Upper Colorado River Commission in 1996 in coordination with the Upper Basin States. This Upper Basin depletion schedule, as contained in Appendix K, shows Upper Basin water development taking place in the future with Upper Basin depletions increasing with time. For the FEIS a revised depletion schedule, developed in 1999, was incorporated into the Colorado River computer model. While the analysis performed for the FEIS uses increasing depletion estimates for the Upper Division, the development of specific new water projects within the Upper Division and the environmental compliance and the legal issues to be resolved in such specific projects are not part of the scope of this proposed action.

2: The analysis does show that Lake Powell storage is sensitive to periods of drought under all alternatives considered in the EIS. Changes in Lake Powell storage resulting from surplus water deliveries to the Lower Basin is an important impact being analyzed in this EIS.

3: The Colorado River Basin Project Act of 1968 (CRBPA), in Section 602 (a)(3), states that water not required to be stored under Sections 602 (a)(1) and 602 (a)(2) of the CRBPA shall be released from Lake Powell under specified conditions, and one of those conditions is if it can be reasonably applied in Lower Division States to the uses specified in Article III (e) of the Compact. Article III (e) of the Compact specifies water must be applied to domestic and agricultural uses. The CRBPA further specifies that water is not to be released from Lake Powell when the active storage in Lake Powell is less than the active storage in Lake Mead. As long as the conditions set forth in the CRBPA and the LROC for Colorado River reservoirs are satisfied, we believe the release of surplus water for groundwater banking is fully in compliance with applicable law. Finally, the Lower Division states each define groundwater banking to be a beneficial use.

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groundwater banking is a current, beneficial use of Compact water under §602. This question is separate and distinct from how wise banking might be from an engineering standpoint.
This is a highly relevant inquiry, in that the delivery of artificial "surplus" waters for groundwater banking will require lowering Lake Powell to make equalizing deliveries to Lake Mead. The draft agreement should be modified to prevent lowering of Lake Powell storage levels to make deliveries to the Lower Basin for other than current, beneficial uses, and should specify that releases should not be made for groundwater banking in the Lower Basin.

4

The 15-year agreement appears to contain the potential for substantial damage to be done to Upper Basin interests absent firm requirements for limiting or de-linking equalizing releases from Lake Powell to Lake Mead. The strategy of lowering Lake Powell to make delivery of artificial surpluses to the Lower Basin is, in UPWA's view, highly risky.

Colorado and the Rest of the Upper Basin Will Only Be Protected by Development of Their High-Altitude Storage Capacity--The 15-Year Agreement Contains no Assurances of Colorado's Right to Develop its Remaining Compact Share

5

The 15-year agreement offers significant assurance to the Lower Basin population centers that municipal and industrial water will be available for delivery during the 15-year agreement period, at some substantial risk to Lower Basin agriculture. At the same time, however, the United States and environmental groups are acting to prevent new municipal appropriations in the Upper Basin, principally in Colorado. We do not believe that these developments can be ignored by the DEIS, or that they are unrelated.

The 15-year agreement does offer Colorado and the Upper Basin some degree of certainty with regard to water allocation in the Lower Basin. The principal assurance to the Upper Basin is establishing firm benchmarks as to when the Secretary will act to declare surplus or shortage conditions in the system. Clearly, the agreement favors the certainty of municipal supplies in the Lower Basin when viewed in light of the active construction of additional storage there and the re-allocation of Lower Basin priorities.

The situation in the Upper Basin inspires less confidence. When, at the same time as municipal supplies in the Lower Basin are being protected, the U.S. Bureau of Reclamation is acting to prevent municipal development of Upper Gunnison waters in the Colorado portion of the Upper Basin, there is little cause for the Upper Basin states to believe that they are truly protected. In essence, the silence of the Upper Basin gives Lower Basin interests a virtual green light to assure the survival of the surpluses past the 15-year point by utilizing vigorous and active efforts to prevent Upper Basin development.

Without a comprehensive commitment to act to develop Upper Basin resources, the 15-year agreement is but half a loaf. The agreement fails to take account of any need to act to develop Upper Basin water resources to meet critical needs there. The DEIS fails to evaluate the impact of

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4: As noted in Section 1.4.2, the equalization requirement in the LROC is the mechanism through which delivery of surplus water to the Lower Basin can influence the operation of Glen Canyon Dam resulting in changes to the storage of water in Lake Powell. Changes in Lake Powell storage resulting from surplus water deliveries to the Lower Basin is an important impact being analyzed in this EIS.

5: The DEIS recognized that future water development will be taking place in the Upper Basin. The computer model simulations of the Colorado River used in the DEIS incorporate an Upper Basin depletion schedule, developed by the Upper Colorado River Commission in 1996 in coordination with the Upper Basin states. That Upper Division depletion schedule, shows Upper Basin water development taking place in the future with Upper Basin depletions increasing with time. For the FEIS, a revised depletion schedule, developed in 1999, was being incorporated into the Colorado River computer model. While the analysis performed for the FEIS uses increasing depletion estimates for the Upper Division, the development of specific new water projects within the Upper Division and the environmental compliance and the legal issues to be resolved in such specific projects are not part of the scope of this proposed action.

6 Upper Basin development on the needs and water availability in the Lower Basin, including the extent to which development of high storage capacity in the Upper Basin might lead to less frequent surplus conditions in the Lower Basin. The situation in the Upper Basin is not neutral. The U.S. BUREC and the U.S. Fish and Wildlife Service are asserting legal positions which are making it more difficult to appropriate water under the Upper Basin States' Compact shares. This is not a theoretical concern, but one which exists today, and which can only worsen if continued for 15 more years.

The 15-Year Agreement is Not Without Risk to the Upper Basin

7 Though the primary risks inherent in the 15-year agreement will fall within the Lower Basin, the agreement is not without risk to the Upper Basin. It is apparent from the notice that the Metropolitan Water District of Southern California ("MWD") is a major beneficiary of the agreement. It is clear that MWD has major new assurances that it will be able to deliver a firm supplies of water for municipal and industrial ("M & I") use during the 15 year period. The risks seem to fall mainly on agricultural use in the Lower Basin, and upon storage levels in Lake Mead. It seems clear that a series of drought condition years would cause a major run-down of Lake Mead storage levels.

8 The likelihood of a major rundown in Lake Mead storage should be further evaluated under historic drought conditions, as well as under anticipated "average flow" conditions. To the extent that this was done in the Sensitivity Analysis of Shortage Assumptions, major decreases below storage

15 protection targets occur at Lake Powell. In the Final EIS, a line should be included in the Lake Powell End of Year Elevations to show the collapse of storage levels below the 3630 level targeted for protection by the 15-year agreement. The results of the sensitivity analysis are startling, and are deserving of far greater attention in the DEIS.

16 Should a storage rundown occur, and should major shortages develop in the Lower Basin, the Upper Basin is theoretically protected by a required de-linking of equalizing flows from Lake Powell, behind Glen Canyon dam, to Lake Mead under §602 (a). It is virtually certain that strong political pressure would be brought to bear to release Compact storage from Lake Powell to relieve shortage conditions at Lake Mead and in the Lower Basin generally. The 15-year agreement does not appear to contain assurances that the Secretary would not act to meet shortage conditions by releasing waters from Lake Powell, other than to mandate a minimum storage value at Lake Powell of 14.85 maf and a minimum storage target of elevation 3630.

9 There appears to be a danger that the flow assumptions which underlie the 15-Year Agreement are too optimistic, and that greater attention needs to be paid to the effect on storage levels of prolonged low flow, or drought, conditions. Indeed, modeling of other parameters indicates that the actual fluctuations may be far greater than those depicted on the end of year elevations.

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6: Comment noted.

7: See response to Comment 5-2 with regard to effects of interim surplus criteria on the Upper Basin. The FEIS addresses the risk of severe drawdown of Lake Mead.
8: The method used to model the future inflows into the Colorado River in the FEIS is referred to as the Index Sequential Method (ISM). This technique has been used since the early 1980s and involves a series of simulations, each applying a different future inflow scenario. Each future inflow scenario is generated from the historical natural flow record by "cycling" through that record. As the method progresses, the historical record is assumed to "wrap around," yielding a possible 85 different inflow scenarios. The result of the ISM is a set of 85 separate simulations (referred to as "traces") for each operating criterion that is analyzed. The ISM captures the range of historical inflows that include drought periods, wet periods and in-between periods. This method enables an evaluation of the respective criteria over a broad range of possible future hydrologic conditions using standard statistical techniques.

15: The Lake Powell water surface elevation of 3630 feet is not an elevation identified as a specific threshold water surface elevation. As such, this specific elevation was not analyzed. Other Lake Powell water surface elevations were analyzed that ranged from 3695 to 3612 feet. These range of elevations that were analyzed include all the elevations identified as specific threshold Lake Powell water surface elevations.

16: With interim surplus criteria in effect, the Colorado River would still be operated according to existing regulations. Please see response to Comment No. 5-2.

9: Elevations of lakes Powell and Mead may fluctuate more than 10 feet within any given year. These fluctuations are represented by end-of-December analyses for Lake Mead and end-of-July water level analyses for Lake Powell. However, the Index Sequential Method of modeling which was performed using monthly time steps (see response to Comment 61-8), and presentation of 10-percent, 50-percent and 90-percent exceedence levels (see Section 2.3.4) indicate reasonable responses of reservoir levels to a wide range of hydrologic conditions.

The Needs of the Lower Basin for Certainty Cannot be Divorced from Identical Needs in the Upper Basin

10 The Lower Basin cannot be viewed in isolation from the Upper Basin. The Secretary has now taken the position that BUREC may operate CRSPA facilities to prevent Upper Basin development, at least development not politically favored by the Secretary. This position is dangerous to the position of the Upper Basin, despite any assurances that Colorado's negotiating team may have given to the other Upper Basin States. If BUREC can utilize CRSPA to prevent, rather than to aid, Upper Basin development, why should the Upper Basin believe that Lake Powell storage levels will remain inviolate, if indeed they will at all? Could a 14.85 maf storage level at Lake Mead trigger Compact delivery requirements at the other, smaller CRSPA reservoirs above Lake Powell?

Given BUREC's recent attempts to prevent Upper Basin development in Colorado, representing the majority of the Upper Basin's Compact Share, the opportunity afforded the Upper Basin to sue the Secretary to protect Lake Powell storage levels may not be a viable remedy.

Inadequate Attention is Paid to the Delivery of "Surplus" Waters For Groundwater Banking in the Lower Basin

Groundwater banking in the Lower Basin of genuine flood surplus flows is unobjectionable, and generally wise. The situation is different where the delivery of artificial surpluses, which require lowering Lake Mead storage levels, is made for groundwater banking.

11 To protect the Upper Basin, it is imperative that equalizing releases from Lake Powell not be made to Lake Made to replace water delivered for groundwater banking. The 15-year agreement, and the DEIS, fail to account for the potential impact on the Upper Basin from groundwater banking in the Lower Basin.

The UPWA questions whether groundwater banking of other than flood surplus flows is a current, beneficial use in the Lower Basin for which deliveries of other than flood surplus flows are authorized for Compact purposes.

The Protection Offered to the Upper Basin is Illusory Given Related Actions by the United States

12 The UPWA thus brings a unique perspective to its comments. Though the 15-year agreement is ostensibly designed, in part, to offer assurance to the Upper Basin states, including Colorado, that its right to develop Upper Basin allocations will be protected, such protection appears to be illusory, at best. The United States is already moving aggressively to prevent Upper Basin development predicated upon its control of federally owned facilities, including CRSPA facilities.

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10: The statement that the "Lower Basin cannot be viewed in isolation from the Upper Basin", is a true and valid statement. In the analysis, both the Upper and Lower basins were considered. Future increased water development in the Upper Basin is incorporated into the analysis. Computer model simulations of the Colorado River used in the DEIS incorporate the 1996 Upper Basin depletion schedule, developed by the Upper Colorado River Commission in coordination with the Upper Basin States. For the FEIS, an updated depletion schedule, developed in 1999, was used. The computer modeling performed for all alternatives showed no instances where water stored in reservoirs above Lake Powell was required to be released to satisfy the requirements of the Colorado River Compact.

11: During the interim surplus criteria period, the agencies that have contracted for surplus water will use surplus water, when available, to meet direct water supply demands, as well as to provide a source of water for conjunctive use and storage programs. The delivery of water to Colorado River water users will be in accordance with the guidelines developed for the selected surplus alternative, if one is selected, and will be consistent with the Law of the River. The FEIS considered and evaluated the potential impact to the Upper Basin users resulting from the surplus alternatives. The analysis results indicated that the interim surplus criteria would have no significant effect on the Upper Basin users as a result of the interim surplus criteria.

12: Reclamation is required to take certain actions to administer United States obligations under the Endangered Species Act and we acknowledge that some actions to meet species protection mandates may affect river operations. Reclamation's required actions to protect and enhance habitat for threatened and endangered species in the United States should not be interpreted as opposition to Upper Basin development. The United States does not assume an obligation to mitigate for adverse impacts in Mexico, but supports joint cooperation projects that would benefit both the United States and Mexico. We acknowledge that in the long run, Upper Basin development will reduce the amount of surplus water available for delivery in the Lower Basin.

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Recent activities and litigation in the Lower Basin and in the Rio Grande raise concurrent concerns about future use of the Endangered Species Act to bypass statutory and Compact requirements in the name of species protection. The United States and numerous environmental groups are moving aggressively to utilize the Endangered Species Act to prevent additional water development in the Upper Basin and elsewhere, and to concurrently re-orient the use of federal water facilities and water operations to protect endangered species. The DEIS fails to analyze the likely impact of these activities and litigation upon the future operation of facilities in the Upper Basin and the Lower Basin. For example, in the Rio Grande drainage, the United States is asserting that its ownership of facilities allows it to mandate releases and bypasses to meet species protection goals under the ESA. A recent lawsuit by environmental groups in the United States and Mexico to protect endangered species in both countries has raised an issue regarding the ability of the Secretary to honor statutory or Compact commitments in the long term when faced with legal challenges to current patterns of operation. These activities do not occur in a vacuum when considering the fate of Upper Basin development, and raise immediate concerns about federal opposition to further Upper Basin development. The 15-year agreement contains no federal commitments protecting the Upper Basin.

The operational effects of Federal environmental initiatives, including the ESA, upon CRSPA facilities, critical to meeting Lower Basin needs during the 15-year agreement, must be evaluated. The U.S. is currently involved in litigation as both a plaintiff and a defendant, and the outcome of current ESA litigation on the 15-year agreement, and the Upper Basin, needs to be evaluated. Once again, these concerns are not theoretical, or in the future, but real, and present now. In Colorado, significant releases from Blue Mesa Reservoir are already contractually dedicated to endangered species protection. What is the cumulative impact of all these policies and actions on the Upper Basin and its human populations? The DEIS offers no such analysis.

13

The DEIS further notes that lowering Lake Mead storage levels may create additional habitat for endangered species at several locations. There is no discussion of the arguments that could be made for such a situation becoming either permanent, or the object of additional protection. What effect would the creation of additional habitat at Lake Mead have upon equalizing flows from Lake Powell?

The 15-year Agreement and the DEIS ignore the Need to Develop the Upper Basin as the Necessary Complement to Fair Implementation

14

The 15-year agreement has the effect of looking at major developments in the Lower Basin in isolation. Though the 15-year agreement may help to support the Upper Basin's already strong legal claim to develop its remaining Compact share, the practical effect is far more limited. The reasons for those limitations are discussed above.

The Upper Basin has no reason to be sanguine about its future prospects without concurrent action to develop its own rights. The United States and environmental groups are actively working now to put in place legal requirements to make significant Upper Basin development difficult or impossible. Thus, re-orientation of Lower Basin allocations should not be considered in isolation

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13: Additional riparian habitat could develop at various locations around Lake Mead when lower surface elevations occur. As discussed in Section 3.8, lower elevations could occur under baseline conditions and each of the alternatives depending primarily upon future hydrologic conditions and Lake Mead water releases. The EIS recognizes that fluctuating reservoir elevations would continue under baseline conditions and the alternatives, which would likely result in future periods of both inundation and exposure of these areas. The proposed action would not change 602(a) equalization requirements.

14: Reclamation and other federal agencies have complex missions and sometimes conflicts arise on issues. For example, Reclamation's legal responsibility to administer the Endangered Species Act affects river operations and the timing of water deliveries. Reclamation does not oppose Upper Basin development but must fulfill its legal obligations under ESA, NEPA and other applicable federal legislation. We acknowledge that the construction and operation of water development projects has become more complicated with additional laws and environmental considerations, but such considerations cannot be ignored.

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from the crying need for Upper Basin development to avoid major shortages. These areas of shortage will include the Colorado Front Range communities, which are not protected by the agreement.

Put simply, the protection of municipal uses in the Lower Basin while municipal uses are actively prevented in the Upper Basin raises numerous issues which have not been answered by the DEIS. Such actions is the Upper Basin are directly related to the likely permanence of the use of Colorado generated surpluses in the Lower Basin, and in California particularly.

Conclusion

Though the 15-year agreement has some merit, it, like the Colorado River Compact itself, cannot be considered in isolation. The only real protection which the Upper Basin has will come with the development of its own potential, including the ability of Colorado to protect its own citizens from the effects of diminished supply and drought. In the meantime, the DEIS fails to account for federal aggressiveness in attempting to foreclose the very development which, in theory, the 15-year agreement attempts to protect. This is a matter critical to Colorado's water future, including the large urban populations of the Colorado front range. This human environment is plainly a major part of the NEPA equation, and must be addressed.

The DEIS fails to consider the threat to Lake Powell storage levels under drought conditions. The DEIS fails to consider the threat to Lake Powell storage levels from groundwater banking in the Lower Basin of other than flood surplus flows. The 15-year agreement and the DEIS fail to deal with the use of Lake Powell to equalize the delivery of artificial surpluses to the Lower Basin, and to the MWD in particular. Any threat to Lake Powell storage is a threat to the long term future of the Upper Basin. This is an issue of the first importance, but is not addressed.

Thank you for the opportunity to comment. Once again, we would like to renew our request for additional time to develop comments on the DEIS.

Sincerely,

VRANESH AND RAISCH, LLP

John R. Henderson

JRH:kes
cc: Union Park Water Authority

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UPPER COLORADO
RIVER COMMISSION
355 South 400 East • Salt Lake City • Utah 84111 • 801-531-1150 • FAX 801-531-9705

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4600

September 8, 2000

BY FAX AND U. S. MAIL

Regional Director
Lower Colorado Region
U. S. Bureau of Reclamation
P. O. Box 61470
Boulder City, Nevada 89006-1470

Attention: Ms. Jayne Harkins - BCOO-4600

Dear Ms. Harkins:

On behalf of the Upper Division States, thank you for the opportunity to provide comments on the Draft Environmental Impact Statement (DEIS) and supplemental information on the "Colorado River Interim Surplus Criteria."

The Upper Colorado River Commission is an interstate administrative agency created by the Upper Colorado River Compact of 1948. The member States of the Upper Colorado River Commission are: Colorado, New Mexico, Utah and Wyoming. Since its inception, the Commission has actively participated in the development, utilization and conservation of water resources of the Colorado River Basin.

The Upper Colorado River Commission has been concerned for a long time about the Lower Colorado River Basin's demand for water in excess of its Compact apportionment. This has been especially true in California.

As early as 1990, discussions between California and the other Basin States were initiated in an attempt to encourage California to manage its demand for Colorado River water to remain within its basic Colorado River apportionment. Beginning in 1996, Lower Basin demands above 7.5 million acre-feet (maf) per year have been met because of favorable hydrologic conditions and through the use of a surplus determination as contemplated in Article II(B)(2) of *Arizona v. California*. Favorable hydrologic conditions may not, however, provide adequate water supplies to meet similar future Lower Basin demands.

California has recently completed the negotiation of a water management plan that could facilitate water conservation and transfer sufficient to allow California's needs to be met within its basic apportionment of 4.4 maf by 2016. Certain of the interim surplus criteria alternatives analyzed within your Draft Environmental Impact Statement could provide short-term certainty to domestic users in California and the other Lower Basin States while providing sufficient time for California to implement its necessary water savings and transfer activities.

The supplemental seven Basin States information provided by *Federal Register* notice dated August 8, 2000 is a carefully crafted set of interim guidelines that represent a consensus agreement among the seven States to govern the determination of surplus conditions in the Lower Colorado River for the next 15 years. These guidelines have been specifically developed to firm up domestic supplies in the Lower Basin while providing appropriate protection for all water users in the Colorado River Basin during the interim period. Further, the proposed guidelines are predicated on and contain enforceable measures to insure that California implements the necessary measures to manage its future demand on Colorado River mainstem water to 4.4 maf/year.

1 These seven Basin States-proposed guidelines fit within the range of the alternatives evaluated in the present DEIS. It is our full expectation that they will be adopted by the Secretary of the Interior as the preferred alternative in the Final Environmental Impact Statement (FEIS) and Record of Decision.

For further consideration in your development of the Final Environmental Impact Statement, we provide the following comments of specific concern:

2 (1) The Upper Colorado River Commission, in its review of the DEIS, finds that there are a number of views expressed in the DEIS concerning the "Law of the River" with which it disagrees or does not wholly concur. However, these differences do not significantly impact the results of the DEIS and thus the Commission does not see any merit in debating them in the DEIS process. However, the Commission wants it clearly understood by all parties that it is not, in any way, changing long-standing positions on Colorado River issues as a result of the way they may be stated in the DEIS. Rather, we would strongly encourage the Bureau of Reclamation to include the usual disclaimer it uses to address the differences that exist with respect to the "Law of the River."

3 (2) In December 1999, the Upper Colorado River Commission approved and made available revised Upper Basin depletions for use in long-range model studies. These revised depletions were provided to Reclamation in January 2000. These revised demands were used when the seven Basin States utilized CRSSEZ in analyzing the impacts of and arriving at the seven Basin States' interim surplus guidelines discussed above. Model studies for the Draft Environmental Impact Statement utilizing Riverware did not use these revised Upper Basin States depletion estimates. We request that the revised Upper Basin depletions be incorporated in any future modeling efforts to support your Final Environmental Impact Statement (FEIS).

4 cont'd below (3) The no action/baseline strategy, described as a 75R strategy, is not a strategy based on an accurate depiction of past actions. Surplus determinations have been made since 1996. The determination for 1996 was made retroactive, based on a 70R strategy and when demands were projected to exceed 7.5 maf. During the development of the 1997 Annual Operating Plan (April through June), hydrologic and forecast criteria substantiated a 70R strategy surplus determination. Only after completion of the "Field Draft" did water supply conditions change, jeopardizing a surplus determination justified by a 70R strategy. A conscious decision was made by Basin States representatives and Interior to stick by a surplus strategy supported by

1: The preferred alternative in this FEIS is derived from the Seven States Proposal. Reclamation did not structure the preferred alternative precisely as described in that draft proposal, but made some changes for consistency with the purpose and need of the proposed action, Reclamation policy and operational procedures.

2: Comment noted.

3: Revised depletion schedules provided by the Basin States were used in analyses for the FEIS. See response to Comment No. 14-10 for more detail.

4: The 70R strategy has been used for the baseline in this FEIS. For additional information, see response to Comment 57-11.

4 cont'd a 70R strategy surplus based on conditions prevalent during the time frame of Interior/Basin States negotiations. Surplus determinations since 1997 have all been made under flood control or 70R trace conditions. To suggest that a 75R strategy represents the no action (historical process) is not historically correct.

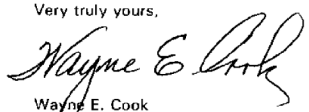
5 (4) The Draft Environmental Impact Statement characterizes the six Basin States plan as based on 75R trace hydrology. This is categorically incorrect. The six Basin States' guidelines (December 1998) as well as the present seven Basin States interim guidelines all have as a baseline condition a return to 70R trace criteria following the interim period.

6 (5) Your comparisons of alternative studies are not consistent in their assumptions. The Base Case and Flood Control alternatives were evaluated not including the water conservation and transfer contemplated in the California 4.4 plan. However, when similar studies were made for the six Basin States and California plan, these conservation and transfer measures were included, rendering the comparative results somewhat in error. All final comparative alternative studies must have similar assumptions, and we recommend that the provisions of the California 4.4 plan be a part of each analysis.

7 (6) All of the present alternative studies in the Draft Environmental Statement have been made without consideration of periodic inflows into the Colorado River from the Gila River above Yuma, Arizona. These periodic flows provide a significant impact on releases from Lake Mead for deliveries to Mexico and as such influence system demands and storage in both the Lower Basin and the Upper Basin. We believe these Gila River flows need to be included, and we encourage Reclamation to do so.

The timely adoption of interim surplus criteria is of the utmost importance in being able to provide dependable domestic water supplies in the Lower Basin in the near term. We encourage you to complete the Final Environmental Impact Statement (FEIS) and Record of Decision prior to January 1, 2001.

Very truly yours,



Wayne E. Cook
Executive Director

5: The operational modeling for the Six States Alternative uses the 70R strategy after the 15-year interim period in this FEIS.

6: Please see response to Comment 37-11.

7: All studies have been made without consideration of periodic inflows into the Colorado River from the Gila River above Yuma, AZ. Gila River flows are infrequent and unpredictable. The RiverWare CRSS model is not currently set up to model Gila River flows; there was insufficient time to incorporate them into the model. The US Army Corps of Engineers has recently completed flow studies of the Gila River. Reclamation is reviewing this new data and will consider modeling the Gila River in future studies.

LOCAL AGENCIES

City of Phoenix
OFFICE OF THE CITY MANAGER

11

September 8, 2000

Mr. Robert Johnson
Regional Director
Lower Colorado Regional Office
c/o Jayne Harkins
BC00-4600
Bureau of Reclamation
P.O. Box 61470
Boulder City, Nevada 89006-1470

Re: Colorado River Interim Surplus Criteria Draft Environmental Impact Statement

Dear Mr. Johnson:

On behalf of the City of Phoenix ("City of Phoenix") I hereby offer comments to the Bureau of Reclamation's ("Reclamation") Colorado River Interim Surplus Criteria Draft Environmental Impact Statement ("DEIS").

Colorado River Basin States Proposal

As outlined in the Federal Register Vol. 65, No. 153, dated August 8, 2000 the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming have agreed to Interim Surplus Criteria ("Seven Basin States Plan") and have consulted with the Secretary of the Interior ("Secretary") as contemplated by the statutory framework for the operation of Colorado River Reservoirs.

1

Phoenix supports Reclamation's preliminary determination that the Seven Basin States Plan is within the range of alternatives and impacts analyzed in the DEIS (65 Fed.Red. 48531, August 8, 2000). Phoenix requests that the FEIS recognizes that the Seven Basin States proposal has been adequately analyzed. Phoenix supports the adoption of this alternative as the preferred alternative for the proposed action .

Baseline Condition

2 cont'd below

Phoenix believes that the 70R spill avoidance strategy more accurately reflects historical practices by the Secretary in managing the Colorado River Reservoir System. The 70R strategy should therefore be adopted as the baseline condition.

200 West Washington Street, 12th Floor, Phoenix, Arizona 85003 602.262.6611 FAX 602.262.8327
Recycled Paper

1: The preferred alternative in this FEIS is derived from the Seven States Proposal. Reclamation did not structure the preferred alternative precisely as described in that draft proposal, but made some changes for consistency with the purpose and need of the proposed action, Reclamation policy and operational procedures.

2: The 70R strategy is used for the baseline in this FEIS. For additional information, see response to Comment 57-11.

2 cont'd

The 70R strategy has been adequately analyzed in the DEIS because "modeling results from 70R strategy are very similar to the Flood Control Alternative, which is evaluated in the DEIS (described in Section 2.3.2). DEIS at 2-1. Adoption of the 70R strategy as the baseline in the FEIS will not require any major reworking of the data found in the DEIS.

3

California Colorado River Water Use Plan (4.4 Plan)

The DEIS states that the Secretary "may condition the continuation of interim surplus criteria for the entire period through 2015 on a showing of satisfactory progress in implementing the 4.4 Plan." DEIS at 1-22.

Phoenix urges the Secretary to explicitly recognize that the continued effectiveness of the Interim Surplus Criteria proposed in the Seven Basin States Plan is to be conditioned on continued progress by California towards implementation of its 4.4 Plan.

3: The selection of the Basin States Alternative as the preferred alternative incorporates the implementation of California's Colorado River Water Use Plan conservation progress. Proposed guidelines for this alternative are in Attachment I.

4

Transboundary Impacts

Section 3.16 of the DEIS contains a lengthy discussion of the "potential effects that extend across the international border below the NIB." DEIS at 3.16-1.

Phoenix does not believe that Reclamation's analysis of these potential impacts is warranted. Reclamation recognizes the tenuous nature of its analysis since the DEIS states that "the potential effects on Mexico's resources cannot be specifically determined due to the uncertainty of water use once it flows across the NIB into Mexico. The waters of the Colorado River, once delivered to Mexico, as agreed upon in the Mexican Water Treaty of 1944, are the exclusive property of Mexico. The treaty contains no provisions requiring Mexico to provide water for environmental protection, nor any requirements relating to Mexico's use of that water." DEIS at 3.16-1.

4: Comment noted. (See response to Comment 22-4.) In addition, CEQ guidance recognizes that there are concerns about the availability of information and agencies have a responsibility to undertake a reasonable search for relevant, current information.

Mr. Robert Johnson
Regional Director
Lower Colorado Regional Office
September 8, 2000
Page 3

Water Rights Settlements

5

The DEIS states that "under shortage, potential impacts to Indian CAP water users differ depending upon whether CAP water is allocated under settlement or without settlement." DEIS at 3.14-13. The same holds true for municipal, industrial and non-Indian agricultural CAP water users in Arizona.

Potential allocations to CAP water users and Indian tribes are the focus of interrelated settlements involving CAP operation and repayment and Indian water rights. Phoenix has previously commented regarding the impacts to CAP allocations with or without settlement. These comments to the Draft Environmental Impact Statement, Central Arizona Project, Allocation of Water Supply and Long-Term Contract Execution are hereby incorporated by reference. They are attached hereto as Attachment A.

Sincerely,

William L Chase

WILLIAM L. CHASE, JR.
Water Advisor

TB:cf/#105593
Enc.

5: Comment noted.

09/08/2000 12:18 4352592959 GRAND CO CLERK PAGE 02

Memo

Grand County Utah

Date: **September 8, 2000**

To: Ms. Jayne Harkins
Attention: BC00-4600

From: Grand County Council

Subject: Colorado River Interim Surplus Criteria

1 This letter is in support of the "Seven State Proposal" for Interim Surplus Guidelines on the Colorado River.

We feel this proposal will allow us to receive our allotted share of the Colorado River water while easing the burden on those states that are currently using in excess of their allotted share.

Thank you.

1: The preferred alternative in this EIS is derived from the Seven States Proposal. Reclamtion did not structure the preferred alternative precisely as described in that draft proposal, but made some changes for consistency with the purpose and need of the proposed action, Reclamation policy and operational procedures.

STATE AGENCIES

ARIZONA POWER AUTHORITY
1810 W. Adams Street • Phoenix, AZ 85007-2697
(602) 542-4263 • FAX (602) 253-7970

BCOO-4600

Regional Director
Lower Colorado Region
U.S. Bureau of Reclamation
c/o Ms. Jayne Harkins
Attention BCOO-4600
P.O. Box 61470
Boulder City, Nevada 89006-1470
Fax Number (702) 293-8042

September 7, 2000

Re: Comments Upon the Colorado River Interim Surplus Criteria- Draft Environmental Impact Statement; 65 Federal Register 47516 (August 2, 2000)

Dear Ms. Harkins:

Please accept the following comments from the Arizona Power Authority (Authority) relating to the Draft Environmental Impact Statement for the Colorado River Interim Surplus Criteria. The Secretary of the Interior acting through the United States Bureau of Reclamation is considering adoption of criteria under which surplus water conditions may be declared in the Lower Colorado River Basin through the Year 2015. The purpose of the criteria is to ensure that the State of California returns to its proper allocation of 4.4 million acre feet of Colorado River water pursuant to the U.S. Supreme Court Decree in Arizona v. California and pursuant to Article III(3)(b) of the Criteria for Coordinated Long Range Operation of the Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Long Range Operating Criteria).

The Arizona Power Authority (Authority) is a public power marketer charged under Arizona State laws with responsibility for taking and marketing the State of Arizona's allocation of 377 megawatts of hydroelectric power from Hoover Dam. The Authority markets the Hoover power to 31 entities including a number municipalities and electrical and irrigation districts throughout the State of Arizona.

The Authority submits the following comments on the Draft Interim Surplus Criteria EIS:

1 | Scope of Draft EIS- Integrated Resource Planning. The Authority notes that historically that water and power resource issues on the Colorado River have been analyzed and recognized as a concomitant pair. We are concerned here that the Draft EIS does not

1: Comment noted. Reclamation believes that the level of analysis for energy resources presented in the FEIS, Section 3.10, appropriately identifies the potential effects of interim surplus criteria.

cont'd

adequately recognize or analyze power generation in implementing any of the four potential Interim Surplus Criteria Alternatives.

For example Table 2-1 goes into extensive detail as to the impacts of the various four alternatives- yet dedicates only two short sentences to hydroelectric power production: ""Flood Control Alternative would be similar to baseline," and "average energy increase of <1% to 2015; decrease of 1% to 2035."

Indeed even the assumption of impacts in these two short sentences are at odds with the apparent impacts to hydroelectric power production as reflected in numerous Figures contained in Section 3.3 of the Draft EIS. The whole issue of hydroelectric power production needs greater consideration in the Draft EIS- especially since Hoover Dam power facilities play an integral role in the reliability of the power system's in the Southwest.

2

Impacts Upon Hoover Dam Hydroelectric Production. Modeled End-of-Calendar Year Lake Mead and Lake Powell Water levels Contained in Figure S-1 reflect potentially serious reductions in power production, particularly for Hoover Dam. See e.g. Figure 3.3-14 on page 3.3-27 which shows the median trend to lower elevations. Indeed that Chart reflects that the 35th Percentile Curve would approach Hoover Dam's Minimum Power Pool elevation of 1083 feet- i.e. Hoover Dam would produce no hydroelectric power at all.

3

Modeled vs. Actual Lake Mead Inflows and Impact of Drought Years . The Draft EIS bases much of its analysis of the Alternatives on "representative seasonal flows" as noted for example, on Figures 3.3-18 (a-d). The Authority is seriously concerned that the modeled flows do not comport with the actual historical unregulated flow data into Lake Mead

We have attached a chart to show the historical unregulated flow data and average flow into Lake Mead from 1968-1997. When reviewing the data several points become apparent. First we were in an above average inflow mode for 1996-1997. Second drought periods occur for extended multi- year periods such as from 1988 through 1993 when annual inflows reached as low as 40% of normal.

In extended drought periods it seems unfair from a water perspective not to suspend or alter the applicability of the Interim Surplus Criteria, so that California shares in the natural occurring impacts of the drought period too.

Next the actual inflow data calls into very serious question the assumption in the Draft EIS (noted above in Table 2-1) that through 2015 there will be an average increase in power generation of less than one percent. In fact, in extended drought periods of more than one year (which are common) the power generating capability of Hoover Dam may be seriously and significantly impaired under all of the Alternatives.

2: Comment noted. Figure 3.3-15 of the FEIS presents the probability for Lake Mead to be below 1,083 feet msl generated from DEIS modeling is approximately 42 to 43 percent (a 58 to 57 percent probability of avoidance) under baseline conditions and each of the alternatives during the final 15 years of analysis. As noted in Figure 3.3-15, Lake Mead water levels may fall below 1083 feet msl under modeled baseline and surplus alternatives. The interim surplus criteria has the potential to draw down the Lake Mead water levels earlier but to the same levels as the baseline conditions.

3: The hydrology data used to model the operations of the Colorado River under baseline conditions and the surplus alternatives were developed using Reclamation's historic Colorado River flow measurement data, in combination with estimates of historical depletions. The resulting natural flow data represents an estimate of the flows that would have existed without storage or depletion by man. This is different than the recorded historical stream flows that represent actual measured flows. The system of measurement and adjustment for natural flows that Reclamation used for EIS analyses represents the best available information. Sections 3.3.2 and 3.3.3 discuss natural runoff and modeling of future hydrology. It is anticipated that Lake Mead water levels and Hoover Powerplant production will be affected by the conditions modeled under the baseline conditions and surplus alternatives. The relative differences in potential impacts as presented in Sections 3.3 and 3.10 are the impacts that need to be considered as being associated with the implementation of the interim surplus criteria, under the respective surplus alternatives.

Hoover Dam Lynchpin Reliability Role in Western State Power Systems. The maximum rated capacity of Hoover Dam is 2074 Megawatts. However Hoover Dam's power capacity plays an essential role in western state power systems far beyond simply the 2074 Megawatts it can produce. That role is system reliability, stability, and support. Power systems require a certain amount of power generating capacity to be held in reserve for immediate activation should any of the generators currently producing power into the system fail or shut down for any reason. Without adequate reserve capacity, failure of one generator tied into the system can quickly produce a chain reaction and cause additional generators attached to the system to fail and create a region wide blackout.

In order to prevent such a regional power failure, the regional system needs significant reserve generation that can be called on immediately to replace the failed generator. This reserve capacity is best provided by facilities with flexible response capabilities. Hoover Dam serves this function in the western regional power system. In a matter of minutes Hoover Dam can provide 2074 Megawatts of clean hydroelectric power to fill the gap and cover the problem in the grid. In addition Hoover's power can move effectively to the problem area since Hoover is connected to the Mead Substation- a major electric substation south of Boulder City from which transmission lines fan out all across the western U.S. In that sense Hoover Dam with its immediate ramping capability and massive transmission system links is a critical lynchpin that assures the reliability within the western states power grid.

Note that for the foreseeable future there is no alternative power source to replace Hoover's unique ability to respond to disturbances in the system. For example coal-fired or nuclear generating facilities have little capability to respond like Hoover. They run best at a flat rate of output. Thus they can not economically serve in a system reliability role. Gas-fired generation may be used in a peaking function- assuming however that (1) that capacity is available and (2) transmission lines are installed to those facilities in order to move that power to the problem area.

However perhaps due to high natural gas prices and lack of water resources for cooling only a few plants have been permitted and less are actually under construction. The little additional power capacity that these plants will add to the total electric system will quickly be swallowed up by growing demand of cities and industry for power. Thus there appears to be no gas-fired capacity under construction that could serve in a peaking capacity and replace lost Hoover capacity. The potential loss of the Hoover resource would place the western power system already low in reserve capacity into a dangerous situation.

4

Impact Upon Authority Power Customers. The Authority delivers Hoover power to 31 Irrigation and Electrical Districts within the State of Arizona. For many districts the Hoover power is the primary source of electrical power. Thus these Districts' agricultural, residential, and industrial users will be impacted either by reduction in available power, or in the significant costs to purchase replacement power in a market where power resources are growing more difficult to obtain at reasonable prices.

5

4: Section 3.10.2.3 includes a discussion of generation ancillary services, which include peaking power. A large portion of the potential losses is included in baseline conditions.

5: See response to Comment 16-2. Impacts to individual power customers is beyond the scope of analysis in the EIS. Reclamation believes that the level of analysis for energy resources presented in the EIS appropriately identifies the potential effects of interim surplus criteria.

Hoover Dam Power Generation and Impact Upon Water Use. A 500 megawatt gas-fired power plants requires anywhere from 4,000,000 to 7,000,000 gallons of water for its cooling system and discharges 20% of that water daily. Thus if the 2074 Megawatt Hoover resource were removed from the marketplace, then four additional 500 Megawatt gas fired facilities would be required in order to replace both Hoover's capacity and its reliability role.

6

Those four generation facilities would cumulatively require an additional 16,000,000 to 28,000,000 gallons of water usage. I note this because water prices in Arizona and adjacent states have risen to the level where gas-fired power plants' economics are becoming marginal at best. That is, the availability of the Hoover resource if impaired- is in question. The reliability role of Hoover Dam could be instead lost to the western grid- a very serious issue for the foreseeable future with power reserve margins dropping throughout the West.

Summary. The Authority encourages the Bureau of Reclamation again to analyze the Draft EIS Alternatives and the data assumptions underlying them as to the power issues. Water and power resource management should be approached in the Draft EIS in an integrated fashion as has traditionally been done along the Colorado River. In solving water issues in the State of California, the current plans may be simultaneously creating equally serious power resource issues for the western region.

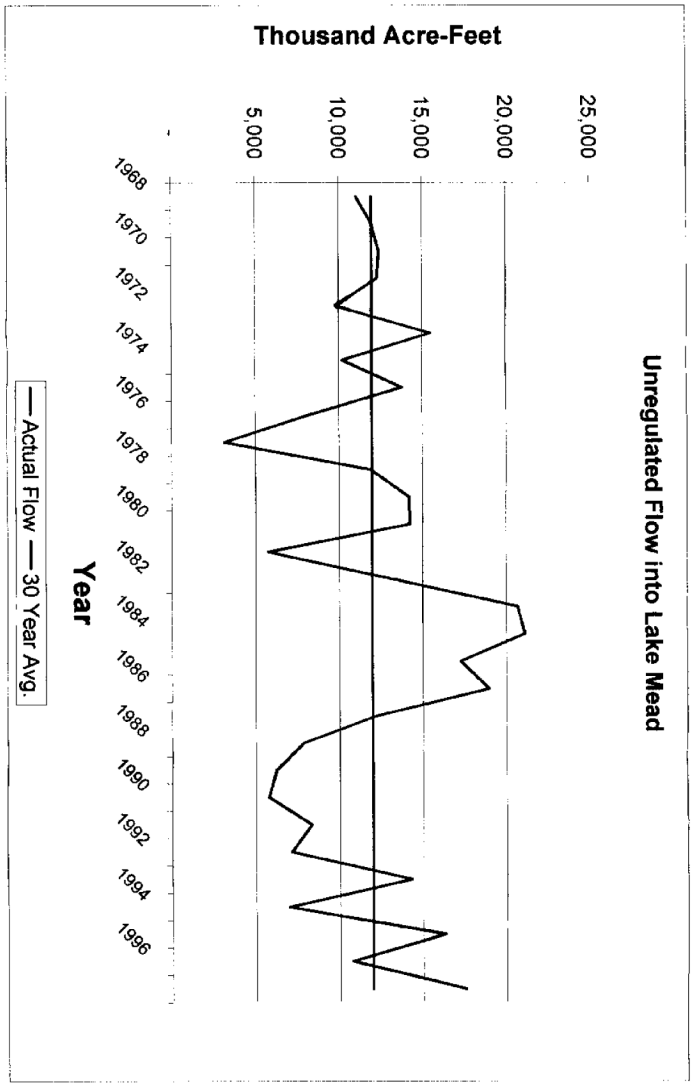
Sincerely,

Douglas V. Fant

Attachment

Mr. Douglas V. Fant
Associate legal Counsel
Arizona Power Authority

6: Comment noted.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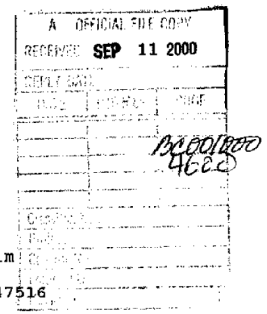
Year
Actual Flow
30 Year Avg.
Unregulated Flow into Lake Mead

ARIZONA POWER AUTHORITY
1810 W. Adams Street • Phoenix, AZ 85007-2697
(602) 542-4263 • FAX (602) 253-7970

September 9, 2000

Via Fax and Mail



Regional Director
Lower Colorado Region
U.S. Bureau of Reclamation
c/o Ms. Jayne Harkins
Attention BCOO-4600
P.O. Box 61470
Boulder City, Nevada 89006-1470
Fax Number (702) 293-8042

Re: Comments Upon the Colorado River Interim Surplus Criteria-Draft Environmental Impact Statement; 65 Federal Register 47516 (August 2, 2000)

Dear Ms. Harkins:

Please accept the following comments from the Arizona Power Authority (Authority) relating to the Draft Environmental Impact Statement for the Colorado River Interim Surplus Criteria. The Secretary of the Interior, acting through the United States Bureau of Reclamation, is considering adoption of criteria under which surplus water conditions may be declared in the Lower Colorado River Basin. The purpose of the criteria is to ensure that the State of California returns to its proper allocation of 4.4 million acre feet of Colorado River water pursuant to the U.S. Supreme Court Decree in Arizona v. California and pursuant to Article III(3)(b) of the Criteria for Coordinated Long Range Operation of the Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Long Range Operating Criteria).

The Authority is a public power marketer charged under Arizona State law with responsibility for taking and marketing the State of Arizona's allocation of 377 megawatts of hydroelectric power from Hoover Dam. The Authority markets its Hoover power to 31 Arizona entities including municipalities, electrical and irrigation districts and the Central Arizona Project.

Regional Director
September 8, 2000
Page 2

The Authority submits the following comments on the Draft Interim Surplus Criteria EIS:

1 The draft EIS extends the National Environmental Policy Act (NEPA) analysis into Mexico. We believe that such an extension is not required by law and raises the question as to why a different approach is being taken in the Multi-species Conservation Program (MSCP). The existence of a Treaty under which the Republic of Mexico has total control over any water passing into Mexico makes such an extension meaningless. We are particularly concerned that a similar extension will be made with the Endangered Species Act (ESA). The Supreme Court has clearly stated that the extraterritorial application of statutes is proper only when the terms of the statute clearly evidence the intent of Congress to apply the statute in foreign countries. Neither NEPA nor the ESA contain evidence of such intent. If protection of species in the Colorado River Delta is to be accomplished by altering the existing accord between the United States and Mexico, that should be accomplished by a modification of the Treaty through negotiations between the State Department and its counterpart in the Mexican government.

1: See responses to Comments 22-4 regarding NEPA analysis and Comment 22-10 regarding ESA application in Mexico. The MSCP is a regulatory program to address ongoing and proposed actions within the U.S.

2 On a different point, we recognize that attention has been given to certain impacts on power generation. It is important that power resource issues continue to be addressed and we look forward to cooperating in that effort.

2: Comment noted. Reclamation is pleased to work with any of the customers on resource issues.

Thank you for an opportunity to submit comments on behalf of the Authority.

Very sincerely,

Joseph W. Mulholland
Executive Director

JWH/jb

ARIZONA DEPARTMENT OF WATER RESOURCES
500 North Third Street, Phoenix, Arizona 85004
Telephone 602-417-2410
Fax 602-417-2415

JANE DEE HULL
Governor

RITA PEARSON MAGUIRE
Director

September 8, 2000

SEP 11 2000

BCOO1000
4600

SENT VIA FACSIMILE TO 702-293-8042

Regional Director
Lower Colorado Region
Attn: Jayne Harkins, LC-4600
Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006-1470

Dear Ms. Harkins:

The Arizona Department of Water Resources (ADWR) submits the following comments on the Draft Environmental Impact Statement (DEIS) for Colorado River Interim Surplus Criteria dated July 7, 2000. By statute, ADWR is the state agency within Arizona that is authorized and assigned the responsibility to consult, advise and confer with the Secretary of the Interior regarding matters dealing with the operation of the mainstem of the Colorado River. These comments supplement previous oral comments made on behalf of ADWR at the Bureau's public hearing held in Phoenix on August 25, 2000.

ADWR has been involved in discussions with representatives of the Colorado River Basin States and the Ten Tribes Partnership for several years. Our position regarding Colorado River reservoir management has consistently reflected that any operating criteria adopted by the Bureau must be technically feasible and legally consistent with the Law of the River, and must also be fair and objective. If there is a category of users who receive particular benefits from the proposed interim surplus criteria, then that benefit must not be realized at the expense of, or to any detriment of others. We, of course, are particularly concerned in this instance. At the present time, Arizona has the least need for use of surplus water. Arizona also faces the great risk when shortages occur because of the lower priority held by the Central Arizona Project (CAP) contractors and other post-1968 Arizona water contractors. This set of circumstances requires ADWR to take a fairly conservative viewpoint toward surplus operating criteria.

Purpose and Need for Action

The DEIS states that the purpose and the need for the proposed action is to provide more specific criteria for the Secretary to make his annual determination of the condition of the River as required by the Long Range Operating Criteria. If this was the primary purpose of the proposed action, then specificity could easily be obtained by adopting the spill avoidance methodology

described in the Bureau's 1986 Special Report entitled Alternative Operating Strategies for Distributing Surplus Water and Avoiding Spills. Arizona has supported the use of the "70R" spill avoidance strategy as a surplus criteria for many years. However, it is clear that the primary purpose for the interim criteria is to provide additional water for California water users during the 15-year period while they are implementing their California Water Use Plan.

1

California water users made a conscious and risky decision to build a reliance on water above their basic apportionment of 4.4 maf when they negotiated the Seven Party Agreement. By that Agreement, the Metropolitan Water District (MWD), who delivers municipal and industrial (M&I) water to the Southern California Coastal Plain, faces the risk of having its supply cut nearly in half if the Secretary determines that California is entitled to only its basic annual apportionment. A severe cutback in M&I supplies would potentially create an unacceptable economic disruption in Southern California. But it must also be recognized that California has received considerable economic benefits from the risk they took because they have been able to receive and use water in excess of their basic apportionment for several decades. The time has come for California to live within their basic apportionment and substantially reduce their water demands from the Colorado River.

ADWR believes that California water users have a variety of water conservation and market mechanisms available to them that will allow them to reduce their water demands, but undoubtedly those options will take some time to implement and will be expensive. The use of interim surplus water will provide a period of time to cushion that economic and financial impact. Because the implementation of interim surplus criteria is designed to deal with the issue of avoiding impacts to Southern California M&I water users, any criteria must recognize that the problem to be solved is specific and the criteria short term. When the time comes for the Secretary to limit Lower Basin deliveries to their basic apportionment, Arizona fully expects him to carry out his obligation as water master, even if that action would create negative economic impacts in Southern California.

Seven Basin States Proposal

Independent of the Bureau's ongoing planning process, representatives of the seven Colorado River basin states have been holding discussions to reach a mutual agreement on terms for interim operating criteria. The seven states have recently completed a "Working Draft for Interim Surplus Criteria Guidelines" which we presented to the Bureau for consideration. ADWR believes that this document describes the best possible set of criteria for meeting California's needs while protecting the rights and interests of others. We believe that the Seven Basin States Proposal falls well within the scope of the DEIS since it is very similar although clearly not identical to the Six States Alternative. Assuming that all of the remaining related issues concerning California's commitments to its Quantification Agreement and California Water Use Plan are resolved, Arizona will be prepared to work with the other states and the Bureau to finalize this proposal. We would then urge the Secretary to adopt the Seven Basin States Proposal as the Preferred Alternative in the Final Environmental Impact Statement (FEIS).

2

Arizona believes that its participation in formulating a consensus Basin States proposal is fully consistent with Secretary Babbitt's policy. In his December 17, 1998 speech before the Colorado River Water Users Association he stated:

1: As discussed in the purpose and need, the purpose is to provide "a greater degree of predictability" of when surplus water is and is not available. Reclamation agrees that the spill avoidance methodology of 70R would meet the purpose and need of the proposed action. Reclamation agrees that interim surplus criteria would complement California's efforts to reduce its water use.

2: The preferred alternative in this FEIS is derived from the Seven States Proposal. Reclamation did not structure the preferred alternative precisely as described in that draft proposal, but made some changes for consistency with the purpose and need of the proposed action, Reclamation policy and operational procedures.

"As to the substance of the surplus guidelines, I am aware of the proposal prepared by six of the seven basin states dated December 4th. On this issue, as on others, I reiterate my preference that all the basin states search for a recommendation on which they can agree. In light of California's needs, and the restrictions relating to surplus in Article II(B)2 of the Supreme Court decree in *Arizona v California*, it would be particularly helpful for California to engage with the other basin states in an effort to find common ground. The time is now right for California and the other states to work together to negotiate surplus guidelines that will adequately recognize the achievement implicit in the steps California is taking in reducing its reliance on Colorado River water by providing assurances that Met's aqueduct can remain full during the intensive period of conservation that lies ahead."

We believe that the Seven Basin States Proposal does exactly what Secretary Babbitt requested. It is a very specific proposal and was carefully and purposefully negotiated. We recognize that the Bureau, using the NEPA planning process, is obligated to give consideration to a variety of factors. As with any work product, there is probably room for improvement. However, ADWR wants to caution you against making significant or substantive changes or we may need to withdraw our support for the consensus proposal. In particular, the provision that requires the Secretary to terminate the guidelines in the event California has not implemented conservation measures to reduce its demand for surplus by certain milepost dates must be included. This requirement must be non-discretionary. We note with concern that the DEIS (§S.2.6) describes a similar requirement for demonstrating progress with the term "may be contingent" rather than the term "shall terminate." It is equally critical that the Secretary agrees that the surplus criteria guidelines will revert to the "70R" baseline when the interim criteria terminate.

3

4

Planning Process

ADWR has been an active participant in numerous Bureau planning programs over the years. In this case, the Bureau chose to fully integrate its planning effort into its NEPA review process. From our perspective this approach has been deficient. Aside from the reduced amount of time it will take to reach a decision, this process has generally been a step backward by the Bureau in terms of public participation and involvement in the planning process. While a series of DEIS scoping meetings were conducted, those meetings were very general and did not provide adequate opportunities to interact with the Bureau's planning team. The outcome of this process is that Bureau planners developed a series of inadequately developed and poorly explained alternatives for presentation in the DEIS. As the Bureau moves forward to complete its FEIS, we hope that the process will be more inclusive when refining the alternatives under consideration and the assumptions used in the modeling and baseline condition analysis. Most important, the Basin States must have adequate opportunity to present and explain the intent and ramifications of statements contained in the Seven Basins States Proposal.

5

Other Comments

- A surplus methodology of 75R was used as the baseline when 70R has been the standard in terms of discussions of surplus criteria. The FEIS should be changed to reflect 70R-spill avoidance strategy as the baseline surplus criteria.

6

3: Please see response to Comment 33-3.

4: Upon termination of the interim surplus criteria the Secretary's procedure for determining surplus, normal, or shortage conditions would revert back to the AOP process, in which numerous factors are considered as discussed in Chapter 1. While the 70R strategy is mathematically convenient as a representation of the baseline, it is only one of the factors considered by the Secretary in the AOP process.

5: Reclamation appreciates the willingness of state and local agency representatives to participate in a dialogue on the interim surplus criteria during the NEPA process. This has been of assistance in compiling water demand projections and other operational aspects for the analysis.

6: The 70R strategy is used for the baseline in this FEIS. For more information, see response to Comment 57-11.

As stated on page 2-1, "The 70R strategy was eliminated from consideration as an alternative in this DEIS because modeling results from 70R strategy are very similar to the Flood Control Alternative, which is evaluated in this DEIS." This rationale is not sufficient justification to eliminate a strategy that has been used for many years as a baseline for surplus criteria. The proof that 70R has been used as the baseline before the publication of this DEIS is stated unambiguously on page 2-5, "Reclamation has utilized a 70R strategy for both planning purposes and studies of surplus determinations in past years."

6 cont'd

Also, on page 2-5, the DEIS states, "When Reclamation reviewed previous surplus determinations as part of this DEIS effort, the data indicated that the 1997 surplus determination did not precisely fit the 70R strategy. Therefore, in an attempt to characterize recent operational decisions in a manner that could be modeled for baseline purposes, Reclamation determined that a 75R strategy would provide a more accurate representation of "no action" than a 70R strategy." There is no explanation for the selection of the 1997 surplus determination as the representative year that characterizes recent operational decisions. We do not believe that 1997 was a representative year. Furthermore, we dispute the contention that the intent of the surplus decision was to change the 70R criteria as the baseline. 70R should be the baseline assumption for analysis purposes in the FEIS.

The DEIS also states on page 2-5, "While the 75R strategy is used to represent baseline conditions, it does not represent a decision by Reclamation to utilize the 75R strategy for determination of future surplus conditions." Arizona strongly agrees with this decision and would not support the use of the 75R strategy to determine future surplus conditions merely because this strategy was used as the "no action" baseline for this DEIS. We strongly suggest that 70R be used as a baseline and thereby avoid creating any erroneous future expectations.

- The descriptions of both the assumed baseline 75R criteria and the Flood Control Alternative indicate that once a threshold determination is made, a surplus is declared. The surplus volume is apparently unquantified and water is made available to all by contractors for surplus water. We believe that such an approach, even if it has been past practice, is inconsistent with the intent of Section II(B)(2) of the *Arizona v California* decree. It is the intent of the decree that the Secretary determine a volume of water available for surplus and then distribute that water 50% to California, 46% to Arizona, and 4% to Nevada. The Bureau's method circumvents that process. By simply requesting a supply greater than half of the overall demand, California would receive more than its legal share of surplus. We believe the DEIS, and the Bureau's current practice, need to be revised to recognize the restrictions relating to surplus in Article II(B)(2) of the Supreme Court decree.

7

- The proposed Six States Alternative is based on the document dated December 4, 1998 presented in Attachment D. As one of the participants in the development of the Six State paper, ADWR questions why the Bureau did not adopt that proposal as it was presented, rather than making modifications to it. For example, the Six States paper uses a surplus tier based on a 70 R strategy, but the Bureau alternative changed that tier to 75 R. (Although the Draft Guideline presented in Attachment H refers to the 70th percentile runoff not the 75th percentile.) In preparing the guidelines for the Six State Alternative the volume of surplus under two of the tiers appear to be inconsistent with the volumes that were modeled using the

8

7: Reclamation and the Department agree that the determination of surplus must be consistent with Article II(B)(2) of the Decree in Arizona v. California. The assumption that the Baseline and Flood Control Alternative declare a "full surplus" (unquantified surplus), reflects the fact that the system is relatively full under those conditions.

8: Reclamation used the 75R strategy for the upper tier of the Six States Alternative and for the period of analysis after the end of the interim period. Because 75R was selected as the baseline, Reclamation was concerned that the use of 70R as presented in the Six States Proposal would introduce inconsistencies into the modelling and compromise the results. In as much as 70R is being used for the baseline in this FEIS, the descriptin of the Six States Alternative will include 70R operation as initally proposed by the States. The inconsistencies in descriptions have been corrected.

8 cont'd tables in Attachment G. This inconsistency leads us to question if the Bureau has accurately evaluated this alternative.

9 • The Shortage Protection Alternative, described beginning on page 2-13, should not have been included as an alternative, because it is an inappropriate operating mode for the reservoir. Operating the reservoir under these criteria would provide an excessive amount of surplus water to California at the expense of the junior water right holders in Nevada and Arizona. It would be irresponsible to use such a mode of operation where the benefits to the Lower Basin states would be so inequitable.

10 • Upper Basin depletions were based on 1996 projections, as stated under Common Modeling Assumptions on page 3.3-9. More recent projections are available and should be used in the FEIS if possible. Current depletion data should be incorporated into the model because actual reservoir elevations from January 1, 2000 are used.

11 • The DEIS states on page 3.3-9 that the baseline No Action Alternative and the Flood Control Alternative did not include the implementation of the California 4.4 Plan. Some water transfers have been agreed to, including the IID to MWD transfer 1988 agreement. Any water transfers that are completed should be included in the assumptions.

12 • The Lower Basin depletion schedules shown in Attachment G do not coincide with the most recent schedules being used in modeling efforts by the Basin States, including the schedule for Normal conditions with the California transfers. Under the most recent version of the Seven Basin State Proposal as published in the federal register, MWD's demand during the interim period for a Full Domestic Surplus should be 1,250 kaf instead of 1,212 kaf.

13 • As stated on page 3.4-5, "The CAP shortage condition depletion schedule used for the analysis remains constant at 1.0 maf over the period of analysis. Additionally, there will also be other shortage condition reductions that affect CAP priority contractors that use water directly from the Colorado River. This quantity is not quantified; however, normal year supplies could be reduced by as much as 35 percent." This is an incorrect description of the Arizona supply during a shortage year. Under the current modeling method, which limits the CAP supply to 1.0 maf, the shortage applies equally to the CAP supply as well as to the on-river Priority 4 water users. Therefore, the Arizona supply to all Priority 4 users would be limited to 1.0 maf, without additional reductions applied to on-river contractors. As a clarification, the shortage year supply could be reduced from a normal year supply by as much as 35%. Under the Seven Basin State Proposal, the total Arizona supply would be reduced to 2.3 maf, as described above.

14 • The DEIS projects that the interim period ends in 2015. The Seven Basin States Proposal assumes the end of the interim period is 15 years after it begins. Given the timing of implementation of the record of decision for this EIS and the schedule of completion for the California Quantification Agreement, it more likely that the interim period will start in 2001 and end in 2016.

15 • ADWR believes the Bureau has mis-characterized and therefore incorrectly analyzed the potential impacts of shortages on CAP Indian Trust Assets in Section 3.14.3. The Record of

9: Comment noted. Reclamation formulated the Storage Protection Alternative as an approximation of the maximum amount of surplus water that could be determined during the interim period, while maintaining a certain amount of water in storage for protection against future shortages.

10: Revised depletion schedules provided by the Basin States were used in analyses for the FEIS. See response to Comment 14-10 for more detail.

11: For the FEIS, intrastate transfers were considered and modeled in all five surplus alternatives that were evaluated in the FEIS. This includes the 1988 IID/MWD agreement. The baseline (No Action) conditions were modeled with and without the transfers. A sensitivity analysis comparing a baseline with and without transfers to the Seven Basin States alternative, was conducted to evaluate the sensitivity of the transfers. Please see Appendix L of the FEIS for the results of this sensitivity analysis and Section 3.4 for the results of the water supply analysis.

12: Revised depletion schedules provided by the Basin States were used in analyses for the FEIS. See response to Comment 14-10 for more detail. The Lower Division depletion schedlues are Attachment H of the FEIS.

13: See response to Comment 14-11 regarding Arizona shortages.

14: The interim surplus criteria alternatives under consideration would be used in years 2001 through 2015 to make surplus determinations for the next year. Thus, water deliveries in years 2002 through 2016 would be subject to interim surplus criteria. Discussion has been added to Chapter 2 of the FEIS to provide clarification.

15: ADWR's comment is noted. ADWR and Reclamation have a rather longstanding difference of opinion regarding shortage impacts on CAP. Under the GRIC Settlement, it is hoped that a resolution of this disagreement may be reached. The disagreement is over which priority takes a reduction first; the CAP fourth priority (M&I water greater than 510,000 AF) or the CAP third priority requiring a reduction of 25 percent of GRIC agricultural water and 10 percent of other CAP Indian agricultural water.

15 cont'd

Decision Dated February 10, 1983 issued by Secretary of the Interior James Watt describes the shortage sharing provisions as follows:

> "During years of water supply shortages, Indian users and non-Indian M&I uses would share a first priority on project water supplies. Depending upon severity of shortages, miscellaneous uses would be reduced pro rata until exhausted; next, non-Indian agricultural uses would be reduced the same way until exhausted; next 25 percent of the Gila Tribe allocation and 10 percent of the irrigation amount allocated to Indian contractors other than the Gila Tribe would be reduced pro rata until exhausted. Finally, the remaining water contracted for by 11 Indian entities under existing contracts and 75 percent of the Gila Tribe allocation would share a priority with 510,000 acre feet of non-Indian M&I uses …and would be reduced on a proportional basis, and within each class on a prorated basis, based on the amount of water actually delivered to each entity in the latest non-shortage year."

While this ROD language, which is incorporated by reference in CAP M&I subcontracts, clearly describes the order in which reductions should take place, the Bureau's description of the priority system in the DEIS includes a fourth priority that reduces M&I to 510,000 acre feet before requiring the reduction by 25% to GRIC agriculture and 10% to the other tribes agriculture. The DEIS needs to be corrected to reflect that CAP third and fourth priorities have been reversed. In addition, the proposed GRIC settlement contains a provision that would modify the shortage sharing formula. Since the DEIS describes the CAP water supply conditions if the GRIC settlement is included, that description should be based on the new shortage sharing formula.

ADWR looks forward to working with the Bureau to complete the planning process leading to the implementation of the Interim Surplus Guidelines of the Colorado River. If you have any questions regarding our comments, please contact Herb Dishlip at 602-417-2440.

Sincerely,

Rita Pearson Maguire
Director

RPM:tjm

AUG-31-2000 16:48 P.02/06

THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT
2221 WEST GREENWAY ROAD, PHOENIX, AZ 85023-4399
(602) 942-3000 • WWW.AZGFD.COM

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August 31, 2000

Mr. Robert W. Johnson
Regional Director
ATTN: Jayne Harkins (LC-4600)
U.S. Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006-1470

Re: Draft Environmental Impact Statement for the Colorado River Interim Surplus Criteria

Dear Mr. Johnson:

The Arizona Game and Fish Department (Department) has reviewed the "Draft Environmental Impact Statement, Colorado River interim Surplus Criteria," dated July 2000. Comments of the Arizona Game and Fish Department are based on the following provisions of Arizona law:

> "Wildlife, both resident and migratory, native or introduced, found in this state except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit from the commission [Arizona Game and Fish Commission], are property of the state and may be taken at such times, in such manner, and with such devices as provided by law or rule of the commission." (Arizona Revised Statutes § 17-102)

> "The laws of the state relating to wildlife shall be administered by the game and fish department. Control of the game and fish department is vested in the game and fish commission." (Arizona Revised Statutes § 17-201)

> "The [Arizona Game and Fish] Commission shall:"
> "2. Establish broad policies and long range programs for the management, preservation and harvest of wildlife."
> (Arizona Revised Statutes § 17-231)

The Arizona Game and Fish Department, therefore, has a trust responsibility for all fish and wildlife within the territorial jurisdiction of the State of Arizona.

AUG-31-2000 16:49 P.03/06

Mr. Robert W. Johnson
August 31, 2000
2

Further, on October 16, 1987 the Arizona Game and Fish Commission formally adopted the following policy, titled "Riparian Habitat", in open public session:

> "It is the policy of the Arizona Game and Fish Commission that the Department shall recognize riparian habitats as areas of critical environmental importance to wildlife and fisheries. The Department shall actively encourage management practices that will result in maintenance of current riparian habitat, and restoration of past or deteriorated riparian habitat...."

The Department is the state wildlife agency for the purposes of consultation by Federal agencies pursuant to provisions of the Fish and Wildlife Coordination Act (16 USC 662 *et seq.*)

1 The Department is concerned about the limited geographic scope of the discussion of effects of the alternatives to aquatic resources and special status species. The analysis should be revised to be complete, including analysis of affects to angling throughout the project area. If impacts to aquatic or special status species are identified after additional analysis, measures to mitigate those impacts should be included. Page specific comments are included herein as an attachment.

We appreciate the opportunity to comments on the referenced document. If you have any question please contact Mr. Bill Werner at 602-789-3607.

Sincerely,

Duane L. Shroufe
Director

DLS:ww

attachment

1: Potential effects on special-status species that could occur between Hoover Dam and the Southerly International Boundary have been included in Section 3.8 of the FEIS. Potential effects on sport fisheries from potential changes in the temperature of water released from Hoover Dam has been developed and included in Section 3.7.3 of the FEIS. No specific mitigation measures are considered necessary for the impacts identified. However, Section 3.17 has been added to the FEIS to discuss environmental commitments.

AUG-31-2000 16:49 P.04/06

Attachment
Arizona Game and Fish Department
Specific Comments By Page
Draft Environmental Impact Statement
Colorado River interim Surplus Criteria, dated July2000.

2 Page 3.2-1, Section 3.2, paragraph 3

The southerly boundary is described as the Northerly International Boundary. It is not clear why this point on the river is used instead of the Southerly International Boundary at San Luis. If the international boundary along the river is generally the 1972 centerline alignment between the Northerly and Southerly International Boundaries, a significant amount of riparian vegetation, including vegetation providing habitat for the Southwestern willow flycatcher, occurring in the United States, may not have been included in the analysis.

2: The area of potential effect has been expanded for the FEIS to include consideration of the Colorado River 100-year floodplain to the Southerly International Boundary. Potential effects on special-status species have been included in the FEIS in Section 3.8.

3 Page 3.3-33, Map 3.3-1

"Bil Williams" should be Bill Williams.

3: This change has been made.

4 Page 3.3-35, Figures 3.3-18 a-d

The heading "Colorado River Seasonal Flows Downstream of Havasu NWR" is not consistent with the location shown on page 3.3-33, Map 3.3-1 for "3. Colorado River at Havasu NWR." The downstream end of Havasu NWR is in Lake Havasu itself. The location marked on Map 3.1 is about at the upstream end of Havasu NWR. The location for which the modeling was completed should be clarified.

4: The headings on Figures 3.3-18a to 3.3-18d are correct. The respective river location shown on Map 3.3-1 has been corrected.

5 Page 3.3-41, Section 3.3.4.5.3, paragraph 3

The description that

> "The river location that was modeled for this reach is located immediately downstream of the Palo Verde Irrigation District."

is not consistent with the location shown on Map 3.3-1 which shows the point just below Palo Verde Diversion dam, at the upstream end of the District. Again, the location for which the modeling was completed should be clarified.

5: The subject river location modeled is immediately downstream of the Palo Verde Diversion Dam. The text has been revised to reflect this location.

6 Page 3.6-7, Section 3.6.1.3

An explanation should be included of what infrastructure of the Wellton-Mohawk Irrigation and Drainage District has been damaged by historic flood flows on the Colorado River. Such infrastructure is more likely impacted by Gila River flood flows.

6: The description of the affected environment in the reach from Parker Dam to Laguna Dam has been corrected by deleting discussion of the Wellton-Mohawk Irrigation and Drainage District facilities. These facilities are not subject to damage from flooding on the Colorado River.

AUG-31-2000 16:49 P.05/06

AGFD Attachment
August 31, 2000
2

Page 3.7-1, Section 3.7.1

It is not clear why the analysis of impacts to aquatic resources is limited to:

> "…potential effects to Lake Mead and Lake Powell aquatic species habitat and potential effects to sports fisheries on Lake Powell and Lake Mead."

7

when the geographic area is described on page 3.2-1:

> "…the northern limit of the potentially affected area under consideration in this DEIS is the upper reaches of Lake Powell. The southern limit is the Northerly International Boundary (NIB) between the United States and Mexico."

Effects of the alternatives throughout the area described above should be analyzed and discussed. Without such analysis and discussion impacts to Arizona trust resources may not have been addressed.

Page 3.7-2, paragraph 4

8

"Uupper Basin" should be Upper Basin.

Page 3.7-8, Section 3.7.3.3.2

The statement that:

9

> "The primary sportfish in the Colorado River is rainbow trout."

is in error when the project area is the upper end of Lake Powell to the Northerly International Boundary. Clearly warm water species such as largemouth bass and catfish are found in significant numbers below Hoover Dam. Warm water species in that area are important to many anglers from Arizona, Nevada, and California.

Page 3.8-1, Section 3.8.1

It is not clear why

10

> "…the section addresses only special status species associated with Lake Powell, Lake Mead, the Lower Grand Canyon along the Colorado River, and the lower Virgin River."

when the geographic area is described on page 3.2-1:

> "…the northern limit of the potentially affected area under consideration in this DEIS is the upper reaches of Lake Powell. The southern limit is the Northerly International Boundary (NIB) between the United States and Mexico."

7: Although the area of potential effect of interim surplus criteria extends from Lake Powell to the SIB (NIB in DEIS), the resource analysis focuses on more limited areas within the area of potential effect to address specific issues identified as having the potential to be affected by interim surplus criteria. As discussed in response to Comment 38-1, an additional issue associated with sport fisheries and sport fishing has been included in the FEIS.

8: This correction has been made in the FEIS.

9: As discussed in Section 3.7.3 of the DEIS, the section addresses sport fisheries in Lake Powell and Lake Mead only. For the FEIS, additional information regarding sport fishing and the potential effects of interim surplus criteria on the temperature of water released from Hoover Dam and associated effects on sport fishing in the lower Colorado River between Hoover Dam and Lake Mohave has been added to Section 3.7.3. Reclamation has determined that fluctuations in flows below Hoover Dam to the SIB under the alternatives would be within the historical operating range of the river and would, therefore, not affect aquatic resources within this segment. Note also that the statement "the primary sport fish in the Colorado River is the rainbow trout" has been removed.

10: The analysis of effects to special-status species has been revised to include discussion for species that may occur in the potentially affected area from Lake Powell downstream to the SIB.

AUG-31-2000 16:50 P.06/06

AGFD Attachment
August 31, 2000
3

Page 3.9-34, Section 3.9.5

11 Affects to all fishing in the project area should be addressed not just reservoir fishing. This is a serious issue to the Department.

DIST-1

It is not clear what agency:

12 "AZ Department of Fish and Wildlife Service"

refers to. In Arizona, the state wildlife agency, as defined in statute, is the Arizona Game and Fish Department.

TOTAL P.06

11: Reclamation has determined that recreation (including sport fishing) within the river corridor between Glen Canyon Dam and Lake Mead would continue to be addressed through the Adaptive Management Program and would, therefore, not be affected by interim surplus criteria (discussion of this Adaptive Management Program as it relates to sport fishing and recreation has been added to Sections 3.7.3 and 3.9.5 of the FEIS). As stated in Section 3.7.3, it is believed that minor changes in water temperature below Hoover Dam are not expected to adversely affect fish populations. Reclamation has determined that fluctuations in flows below Hoover Dam to the SIB under the alternatives would be within the historical operating range of the river and would, therefore, not affect sport fishing within these areas.

12: The Distribution List has been corrected to read "Arizona Game and Fish Department."

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, *Governor*

COLORADO RIVER BOARD OF CALIFORNIA
770 FAIRMONT AVENUE, SUITE 100
GLENDALE, CA 91203-1035
(818) 543-4676
(818) 543-4685 FAX

TRANSMITTED VIA FACSIMILE & US MAIL

September 8, 2000

SEP 11 2000

Mr. Robert W. Johnson
Regional Director
Lower Colorado Region
Attn: Jayne Harkins, LC-4600
Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006-1470

Re: Comments on Colorado River Interim Surplus Criteria
Draft Environmental Impact Statement – July 2000

Dear Mr. Johnson:

The following comments supplement the comments submitted by the Colorado River Board in its letter dated June 29, 1999.

The Colorado River Board of California (CRB) wishes to recognize and appreciates the enormous amount of effort and time that has been expended to date by the Department of the Interior, especially Deputy Secretary David Hayes, and the staff of the Bureau of Reclamation's (Reclamation) Lower Colorado Region office in facilitating the development of the interim surplus criteria for the Lower Colorado River among the various parties and stakeholders. As you are aware, California is committed to implementing its proposed "Colorado River Water Use Plan" dated May 11, 2000 (Plan). Interim surplus criteria for the Lower Colorado River is a vital component of the Plan. The representatives of the Governors of the seven Colorado River Basin States have submitted a "Working Draft for Interim Surplus Criteria Guidelines" for inclusion in the final environmental impact statement which Reclamation published in the August 8, 2000 issue of the *Federal Register* (volume 65, No.153). The CRB supports the seven Basin States' Working Draft for Interim Surplus Criteria Guidelines as the preferred course of action. 1

It is the CRB's understanding that Reclamation has requested that representatives of the Colorado River Basin States provide Reclamation with updated projections of demand for Colorado River water for Reclamation's use in the FEIS. California is in the process of fulfilling Reclamation's request taking into account the Plan and the Working Draft for Interim Surplus Criteria Guidelines.

Sincerely,

Gerald R. Zimmerman
Executive Director

1: The preferred alternative in this FEIS is derived form the Seven State Proposal. Reclamation did not structure the preferred alternative precisely as described in that draft proposal, but made some changes for consistency with the purpose and need of the proposed action, Reclamation policy and operational procedures.