CHAPTER 6: LOWER BASIN WATER ENTITLEMENTS

Introduction

The apportionment of Colorado River water for use in the Lower Basin in the Lower Division States of Arizona, California, and Nevada is governed by the Boulder Canyon Project Act, Public Law (Pub. L.) No. 70-642, 45 Stat. 1057 (1928) (BCPA) and by the framework established under the United States Supreme Court's 1963 Opinion and 1964 Decree in *Arizona* v. *California*. The 1964 Decree was incorporated in 2006 into a final consolidated decree in *Arizona* v. *California*, 547 U.S. 150 (2006) (Consolidated Decree).

Colorado River water is apportioned for use within the Lower Division States by the Secretary of the Interior (Secretary), in accordance with the BCPA and the Consolidated Decree. The legal framework governing apportionments for the Lower Division States is discussed in detail in *Updating the Hoover Dam Documents 1978*, Chapter I.

The State of Arizona's apportionment is further governed by the Contract for Delivery of Water between the United States and the State of Arizona, acting through its Colorado River Commission, dated February 9, 1944.

The State of California's apportionment is further governed by *General Regulations for Contracts for the Storage of Water in Boulder Canyon Reservoir, Boulder Canyon Project, and the Delivery Thereof*, adopted by the Secretary on September 28, 1931, which incorporate a priority system agreed to by seven California water agencies in an August 18, 1931, agreement (Seven-Party Agreement) discussed later in this chapter. These priorities are further incorporated into the water delivery contracts entered into between the Secretary and California water agencies pursuant to the BCPA.

The State of Nevada's apportionment was first governed by the Contract for Delivery of Water between the United States and the State of Nevada and its Colorado River Commission, dated March 30, 1942, and the Supplemental Contract for Delivery of Water between the United States and the State of Nevada and its Colorado River Commission, dated January 3, 1944. These contracts were later amended, supplemented, and superseded as discussed in this chapter.

Water within each State's apportionment is allocated for beneficial use to water users within the respective State. An allocation of Colorado River water is commonly referred to as a water entitlement, with the authority for the entitlement found in either the Consolidated Decree, a water delivery contract with the Secretary under Section 5 of the BCPA, or a reservation of water by the Secretary.

Early rights, known as present perfected rights or perfected rights, to the use of Colorado River water in the Lower Division States are recognized in the Consolidated Decree. Entitlements created prior to 1979 are addressed in *The Hoover Dam Documents 1948*, Chapters X and XI, and in *Updating the Hoover Dam Documents 1978*, Chapter II, with Chapter X of the latter volume addressing the determination of present perfected rights in proceedings before the United States Supreme Court in *Arizona* v. *California*.

This chapter discusses entitlements created, transferred, or assigned in the Lower Division States during the period from 1979 through 2008. Major entitlement actions are discussed first, followed by a discussion of factors affecting the administration of water entitlements. The chapter concludes with a comprehensive listing of contract actions for this period, which includes a discussion of the priority system used for the delivery of Colorado River water within each Lower Division State.

Native American entitlements recognized in the Consolidated Decree in *Arizona* v. *California* are discussed in Chapter 11. Contract actions relating to Native American water rights settlements are discussed in Chapter 10. Other types of contracts entered into under Federal reclamation law, such as those providing for repayment of project costs, for transfer of operation, maintenance, and replacement of facilities, or for transfer of title, are discussed in Chapter 5.

Entitlement Actions in the State of Arizona

Yuma County Water Users' Association Water Conversion Contract

Colorado River entitlements in the Valley Division of the Yuma Project were initially obtained for irrigation uses under water right applications submitted by landowners to the Secretary in accordance with early Federal reclamation law and then executed and recorded by the Secretary. Colorado River water is delivered to Valley Division entitlement holders through project facilities owned by the United States and operated by the Yuma County Water Users' Association (YCWUA). Over time, an increasing number of Valley Division entitlement holders within the YCWUA service area have desired to convert irrigation use entitlements to domestic use.

On August 24, 1996, the Supplementary Contract To Provide for the Delivery of Converted Water To the Lands In the Valley Division of the Yuma Project, designated as Supplementary Contract to Contract No. I76r-671 and Contract No. 14-06-300-621, was entered into between the United States and YCWUA. This contract allows for the voluntary irrevocable conversion of individual water entitlements within the YCWUA service area in the Valley Division from irrigation use to domestic use, with the consent of YCWUA and the entitlement holder.

As a condition of the election to convert a water entitlement to domestic use, an entitlement holder must irrevocably appoint the YCWUA as delivery agent for the converted water. The YCWUA may either deliver the water or appoint an agent to deliver the water. The City of Yuma serves as YCWUA's delivery agent in the northern portion of the Valley Division and pays the annual fees assessed by YCWUA for those landowners who elect to convert their water entitlement.

Final Administrative Determination of Appropriate and Equitable Shares of the Colorado River Water Entitlement for the Yuma Mesa Division of the Gila Project

The Gila Project, authorized for construction under a finding of feasibility approved by the President on June 21, 1937, was established to reclaim and irrigate lands near Yuma, Arizona. See *The Hoover Dam Documents 1948*, Appendix 1211. The Act of July 30, 1947, Pub. L. No. 80-272, 61 Stat. 628 (1947) (Gila Project Reauthorization Act), changed the project boundaries, fixed the maximum acreage, and created the Yuma Mesa Division (Division) and the Wellton-Mohawk Division. The Division consists of three units: the North Gila Valley Unit, the South Gila Valley Unit, and the Mesa Unit. Each unit is represented by a water contracting entity, specifically, the North Gila Valley Irrigation District (NGVID) for the North Gila Valley Unit, the Yuma Irrigation District (YID) for the South Gila Valley Unit, and the Yuma Mesa Irrigation and Drainage District (YMIDD) for the Mesa Unit.

The Gila Project Reauthorization Act limited the Division's irrigated acreage to approximately 40,000 acres (25,000 in the Mesa Unit and a combined 15,000 in the North and South Gila Valley Units) or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than 300,000 acre-feet of Colorado River water annually. This allowed for the irrigation of up to 25,000 acres within YMIDD and up to a combined total of 15,000 acres within NGVID and YID.

Congress further reduced the Division's consumptive use and acreage limitations in the Act of October 19, 1984, Pub. L. No. 98-530, 98 Stat. 2698 (1984) (Ak Chin Settlement Act). The Ak-Chin Settlement Act reduced the Division's annual consumptive-use water entitlement from up to 300,000 acre-feet to no more than 250,000 acre-feet and provided that the water shall not be used to irrigate more than 37,187 acres of land in the Division, specifically 6,587 acres in NGVID, 10,600 acres in YID, and 20,000 acres in YMIDD. The Ak-Chin Settlement Act also included a provision that additional land within YMIDD may be irrigated if there is a corresponding reduction in the irrigated acreage in NGVID and YID so that at no time are more than 37,187 acres being irrigated in the Division.

To implement the provisions of the Ak-Chin Settlement Act, a Colorado River water delivery contract was entered into with each district within the Division in 1985, supplementing and amending earlier contracts. Each water delivery contract contains the following language:

> Provided, however, That the quantities of water which the District shall be entitled to receive under this contract shall not, in any event, exceed an appropriate and equitable share of the quantities of water available for the Division, all as determined by the Secretary.

The contracts also provide for the United States to determine return flow credits for the Division.

Following passage of the Ak-Chin Settlement Act and execution of the implementing water delivery contracts, difficulties were encountered regarding administration of the jointly held Division water entitlement with respect to the amount of water each district might put to beneficial use. On May 22, 1997, the NGVID and YID requested a separation of the jointly held water entitlement, with YID renewing the request by letter dated December 3, 1997.

The Bureau of Reclamation (Reclamation) engaged in extensive consultation with NGVID, YID, YMIDD, and the Arizona Department of Water Resources. On December 27, 2001, the Regional Director for the Lower Colorado Region issued a Final Administrative Determination of Appropriate and Equitable Shares of the Yuma Mesa Division's Colorado River Water Entitlement for the North Gila Valley Unit, the South Gila Valley Unit, and the Mesa Unit of the Gila Project in Arizona (Administrative Determination).

The Administrative Determination, in accordance with the proviso in the water delivery contracts, established the appropriate and equitable share for each district of the quantity of water available to the Division under the Division's 250,000 acre-foot annual Colorado River consumptive use entitlement. Each district's share of the Division's entitlement was determined to consist of: (1) a domestic use apportionment; (2) an irrigation use apportionment based on crop consumptive-use requirements; and (3) a conditional supplemental use water apportionment reflecting the high permeability of the irrigated acreage soil and determined based on the amount of return flow to the river. Each district's share of the Division's water entitlement is shown in Table 6-1.

Table 6-1. Summary of Each District's Share of the Yuma Mesa Division Water Entitlement[1]

Entity	Domestic	Irrigation	Supplemental	Total
NGVID	2,500	29,650	9,053	41,203
YID	5,000	47,700	14,578	67,278
YMIDD	10,000	104,000	27,519	141,519
Total	**17,500**	**181,350**	**51,150**	**250,000**

[1]All measures in acre-feet.

The Administrative Determination also included criteria for: (1) approving increases in domestic use water apportionments; (2) allowing other districts within the Division to utilize a district's unused apportionment for any given year; (3) dealing with use of water by any district in excess of its apportionment; (4) approving water recovery plans to develop return flow credit; and (5) accounting for water use within the Division, including return flow accounting.

Entitlement Actions in the State of California

Entitlement actions relating to the Lower Colorado Water Supply Project are discussed in Chapter 5.

Development of Agreements Relating to Quantification of Shared Priorities

The State of California is entitled to the consumptive use of up to 4,400,000 acre-feet per year of Colorado River water within the Lower Basin apportionment of 7,500,000 acre-feet per year when the Secretary determines through the Annual Operating Plan (AOP) that a Normal Condition of water availability exists. See Chapter 1. California is further entitled to additional water during years in which the Secretary determines the existence of a Surplus Condition or makes available to California water apportioned to, but not used by, the States of Arizona and Nevada.

As mentioned earlier, California's apportionment is governed by the Consolidated Decree in *Arizona* v. *California*, which sets forth present perfected rights, and by the *General Regulations for Contracts for the Storage of Water in Boulder Canyon Reservoir, Boulder Canyon Project, and the Delivery Thereof*, adopted by the Secretary on September 28, 1931, which incorporate a priority system agreed to by seven California water agencies in an August 18, 1931, agreement (Seven-Party Agreement). The Seven-Party Agreement is discussed in *The Hoover Dam Power and Water Contracts and Related Data* (1933), Part I(8), *The Hoover Dam Documents 1948*, Chapter X, and *Updating the Hoover Dam Documents 1978*, Chapters I and II. The priorities of the Seven-Party Agreement are incorporated into contracts entered into between the Secretary and California water agencies pursuant to the authority of the BCPA.

The parties to the Seven-Party Agreement are the Palo Verde Irrigation District (PVID), Imperial Irrigation District (IID), Coachella Valley County Water District (now Coachella Valley Water District or CVWD), The Metropolitan Water District of Southern California (MWD), City of Los Angeles, City of San Diego, and County of San Diego. When PVID executed the agreement, PVID reserved the right to contract with the Secretary either in accordance with the allocation in the agreement or, in the event that such allocation were superseded by a final judicial determination, then according to that determination, with the proviso that priorities four and five not be disturbed. See *The Hoover Dam Power and Water Contracts and Related Data 1933*, Part I(8). The PVID reservation was also incorporated into the 1931 regulations and into the contracts between the Secretary and the California water agencies.

The priorities established by the Seven-Party Agreement and adopted by the Secretary in the 1931 regulations are illustrated in Table 6-2, originally published in *Updating the Hoover Dam Documents 1978,* Chapter I.

Table 6-2. California Priority System

Priority	Description		Acre-feet Annually
1	Palo Verde Irrigation District - gross area of 104,500 acres	)	
2	Yuma Project (Reservation Division) - not exceeding a gross area of 25,000 acres	)	3,850,000
3(a)	Imperial Irrigation District and lands in Imperial and Coachella Valleys to be served by AAC	)	
3(b)	Palo Verde Irrigation District - 16,000 acres of mesa lands	)	
4	Metropolitan Water District and/or City of Los Angeles and/or others on coastal plain		550,000
5(a)	Metropolitan Water District and/or City of Los Angeles and/or others on coastal plain		550,000
5(b)	City and/or County of San Diego		112,000
6(a)	Imperial Irrigation District and lands in Imperial and Coachella Valley	)	300,000
6(b)	Palo Verde Irrigation District - 16,000 acres of mesa lands	)	
	Total		5,362,000

The first three priorities in the Seven-Party Agreement are for agricultural uses, in an amount collectively not to exceed 3,850,000 acre-feet of water per year of consumptive use. The first three priorities are not, however, individually quantified in terms of allowable consumptive use. The unquantified third priority is also a shared priority (among IID, CVWD, and PVID – for mesa lands), as is the sixth priority.

The priority system adopted by the Secretary from the Seven-Party Agreement contains a seventh priority for all remaining Colorado River water available for use in California. This priority is for agricultural use in the Colorado River Basin as designated on Reclamation Map No. 23000.

As the result of an agreement reached in connection with the construction of the Coachella Canal as a branch of the All-American Canal, CVWD's entitlements to water in the third and sixth priorities for lands in the Coachella Valley were subordinated to those of IID. The resulting mix of unquantified, shared, and subordinated agricultural entitlements complicated efforts in ensuing decades to conserve agricultural uses of water for transfer to southern California's coastal areas to meet growing demand. See *The Hoover Dam Documents 1948*, Chapter XI.

From the early 1950s, California diverted more Colorado River water than its Normal Year[1] apportionment of up to 4,400,000 acre-feet. For much of that period, California had access to unused Arizona and Nevada apportionment made available to California by the Secretary under Article II(B)(6) of the 1964 Decree in *Arizona* v. *California*. California also utilized surplus water made available by Secretarial determination under Article II(B)(2) of the 1964 Decree.

Population increases in coastal California in the last quarter of the 20th century led to a dependence on surplus Colorado River water and unused apportionment from Arizona and Nevada. Population increases in Nevada and Arizona, as well as the completion of the Robert B. Griffith Water Project in the 1980s and the Central Arizona Project (CAP) in the 1990s, led to an increased utilization of Colorado River water in these States and reduced the amount of unused apportionment that the Secretary might otherwise have made available to California. Periods of drought in the late 20th and early 21st centuries reduced the likelihood of further surplus determinations. These factors combined to put pressure on California water agencies to develop a plan to reduce California's overdependence on Colorado River water supplies. The implementation of conservation measures by agricultural users, with the transfer of the conserved water to urban users, became one means to reduce this overdependence.

On December 22, 1988, IID and MWD entered into the Agreement for the Implementation of a Water Conservation Program and Use of Conserved Water (Water Conservation Agreement). IID agreed to adopt measures to conserve a portion of the Colorado River water to which IID was entitled under its water delivery contract with the Secretary, with the conserved water to be made available to MWD during the term of the agreement. MWD agreed to pay the costs of the conservation measures. The Water Conservation Agreement provided that in any year in which less than 3.85 million acre-feet were made available to the first three priorities in California, IID might elect to not make the conserved water available to MWD, with MWD relieved of the cost obligation for that year. Both parties desired Reclamation's approval of the agreement.

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[1] See Chapter 1 for discussion of the Secretary's determination of a Shortage, Normal, or Surplus Condition under the Consolidated Decree in *Arizona* v. *California*.

By letter dated January 17, 1989, Reclamation addressed the need to fit the delivery requirements of the Water Conservation Agreement within the existing contractual and legal framework:

> [Reclamation is] prepared to operate the river in a manner that will permit us to deliver the water to MWD at its Lake Havasu diversion point in an amount equivalent to the water conserved under the Agreement, as long as it can be accomplished within the contractual framework under the Seven Party Agreement and California law. We emphasize, however, that, to the extent the agreement has detrimental impacts on the existing rights of Coachella and Palo Verde, such activity would only be carried out with their concurrence. We encourage you to continue your efforts to obtain their concurrence.

IID and MWD did not initially obtain the concurrence of CVWD and PVID.

CVWD brought suit in the United States District Court for the Southern District of California in a case styled *Coachella Valley Water District* v. *Imperial Irrigation District, et al.*, Case No. 890165B(IEG), alleging that the Water Conservation Agreement was unlawful and void. IID, MWD, PVID, and CVWD later entered into the Approval Agreement, dated December 19, 1989, in which IID agreed to augment the conservation program, and in which MWD agreed to pay for, but not take, a portion of the conserved water under specified circumstances in years in which a reduction in agricultural diversions is required by the Secretary. The Approval Agreement provided formulae to determine in such circumstance the amount of IID's conserved water that MWD would not divert and the amount of water that CVWD and PVID (for its third priority mesa lands) would not divert, that collectively would equate to the required reduction in agricultural diversions. The Approval Agreement provided for MWD's use of the conserved water to be charged to MWD under its existing water delivery contracts with the United States. Both the Conservation Agreement and the Approval Agreement contained provisions addressing the parties' desire to preserve their respective legal positions. In addition, MWD and CVWD entered into the Agreement to Supplement Approval Agreement, also dated December 19, 1989, in which CVWD made certain additional commitments relating to its use of Colorado River water and its rights under the Approval Agreement.

Reclamation requested that the Colorado River Board of California lead discussions among the California water agencies to address issues relating to the Colorado River priority system set forth in the Seven-Party Agreement. In particular, Reclamation sought agreement on a method for assigning responsibility for excess use in order to determine responsibility for payback of overruns. The California agencies did not reach agreement.

In an effort to provide clarity with respect to the administration of California entitlements and to assign responsibility for excess use, Reclamation, by letter dated December 10, 1992, proposed a method to administer the entitlements by assigning specific amounts of water to the entitlement holders in the first three priorities. The methodology was proposed in order to:

> facilitate voluntary water transfers, water banking programs, improvements in reasonable beneficial use, apportionment use compliance, maximization of California's beneficial use of its Colorado River water apportionment, and drought mitigation management.

The Reclamation proposal was not implemented. For more than a decade following this letter, Reclamation would actively participate with the California water agencies in discussions relating to (and litigation over) an appropriate quantification of the shared priorities. Representatives of the other six Colorado River Basin States were also active participants in many of these discussions.

On April 29, 1998, IID and the San Diego County Water Authority (SDCWA) entered into an Agreement for Transfer of Conserved Water for the purpose of creating and transferring conserved water from IID to SDCWA. IID agreed to adopt measures to conserve a portion of the Colorado River water to which IID was entitled under its water delivery contract with the Secretary, and to transfer this water for a specified period of years to SDCWA.

The IID/SDCWA transfer agreement was met with opposition from CVWD and MWD. The transfer agreement raised issues both in connection with the existing water delivery agreements, which incorporated the priorities of the Seven-Party Agreement, and in connection with the IID water delivery agreement with the Secretary, which provided for use of IID's entitlement "within the boundaries of the District."

Negotiations ensued among representatives of the State of California, IID, CVWD, and MWD, with the direct participation of the United States Department of the Interior. The negotiating teams for the State of California, IID, CVWD, and MWD adopted the Key Terms for Quantification Settlement Among the State of California, IID, CVWD and MWD (Key Terms Agreement), dated October 15, 1999. This agreement became the conceptual framework for the later Federal quantification settlement agreement that allowed the IID/SDCWA transfer to proceed. Although the Key Terms Agreement provided a framework for further negotiation, the parties were not yet able to fully and finally resolve their differences.

On May 11, 2000, the Colorado River Board of California issued California's draft Colorado River Water Use Plan, commonly known as the California 4.4 Plan, proposing a suite of actions that would reduce California's dependency on Colorado River water through water conservation and transfers. The implementation of water conservation measures within farming communities, such as those in the Imperial Valley, and the voluntary transfer of that conserved water to the coastal areas of southern California were key elements of the plan, as was the lining of certain unlined portions of the All-American and Coachella Canals.

Secretary of the Interior Bruce Babbitt took action to encourage the California water agencies to reach agreement, adopting the Interim Surplus Guidelines (2001 ISG) on January 16, 2001, to be in place for an interim period through 2016. See Chapter 2. The guidelines were designed to provide California with a "soft landing" in the State's efforts to reduce reliance on Colorado River water by increasing the likelihood that surplus water would be made available, contingent on California making sufficient progress to reduce its use of Colorado River water. Under these guidelines, the Secretary would determine that surplus water is available for domestic use (known as a partial or full domestic surplus) if the water surface of Lake Mead were above specific elevations, thus providing additional water to California above the Normal Condition apportionment of 4,400,000 acre-feet, subject to certain conditions.

The specific conditions included a provision in the 2001 ISG that linked any Secretarial determination of a partial or full domestic surplus to the adoption of a Quantification Settlement Agreement (QSA) among IID, CVWD, MWD, and SDCWA by December 31, 2002, and thereafter on a gradual reduction in agricultural use of Colorado River water in California. If the conditions of the 2001 ISG were not met, even if the elevation of Lake Mead would otherwise justify the determination of a partial or full domestic surplus under the 2001 ISG, the Secretary would suspend such determinations, thereby reducing the amount of water otherwise available to California.

The United States Department of the Interior continued to play an active role, working with California water agencies to develop a QSA to quantify shared priorities to allow the implementation of the IID/SDCWA transfer agreement and to secure the benefits of the 2001 ISG for California. Although consensus was reached on many issues and the draft agreements continued to evolve, a QSA was not adopted by the California parties by the ISG deadline of December 31, 2002.

In the absence of a QSA, Secretary of the Interior Gale A. Norton suspended application of the domestic surplus provisions of the 2001 ISG, determining California's 2003 Colorado River water allocation to be limited to a Normal Condition apportionment, up to 4,400,000 acre-feet. For context, in 2002 California used 5,275,607 acre-feet. The limitation to no more than 4,400,000 acre-feet for 2003 represented a reduction of 875,607 acre-feet.

With California limited to no more than the consumptive use of 4,400,000 acre-feet of Colorado River water in 2003, Reclamation focused attention on the requirement of Federal law and contracts that Colorado River water be put to reasonable and beneficial use. Heightened scrutiny under 43 CFR Part 417 was brought to bear on water use practices to ensure that appropriate standards of reasonable and beneficial use were met. IID filed suit against the Secretary in *Imperial Irrigation District* v. *United States*, No. 03-CV-0069W (JFS) (S.D. Cal. filed Jan. 10, 2003), relating to determinations in connection with IID. By order dated April 16, 2003, and filed April 17, 2003, the United States District Court remanded the case to the United States Department of the Interior for a *de novo* Part 417 review of IID's Colorado River water use.

Ultimately, in October 2003, the goals of the California 4.4 Plan were achieved and a framework was created to satisfy the conditions of the 2001 ISG through a balancing of agricultural, urban, environmental, tribal, State, and Federal interests, accomplished through the execution of numerous contracts, including the Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement (CRWDA or Federal QSA), a stipulated dismissal of the IID lawsuit, and the adoption of a Federal accounting policy relating to overruns. In addition to agreements executed by the Federal government, there were numerous contracts and agreements reached among the participating State entities.

Specifically, Secretary Norton signed the *Record of Decision, Colorado River Water Delivery Agreement, Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions, Final Environmental Impact Statement* (2003 ROD), dated October 10, 2003, published in the *Federal Register* at 69 Fed. Reg. 12202 (March 15, 2004), which included the Inadvertent Overrun and Payback Policy (IOPP) and the CRWDA (which encompassed a Federal quantification settlement agreement). The IOPP, discussed later in this chapter, provides flexibility in Colorado River management. The Secretary's adoption of the IOPP was, in part, to address concerns of agricultural districts, in particular the concerns of IID, that the water transfers might limit flexibility to meet often unpredictable agricultural water demand by reducing available water supplies.

After signing the 2003 ROD, the Secretary executed the following contracts:

- The Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement (CRWDA or Federal QSA), dated October 10, 2003, described in detail below, which satisfied one of the conditions of the 2001 ISG and helped to implement the IID transfer to SDCWA

- The Allocation Agreement Among the United States of America, The Metropolitan Water District of Southern California, Coachella Valley Water District, Imperial Irrigation District, San Diego County Water Authority, and the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians, the San Luis Rey River Indian Water Authority, the City of Escondido, and Vista Irrigation District, dated October 10, 2003, which allocated water conserved from the lining of the All-American and Coachella Canals

- The Agreement Relating to Supplemental Water Among The Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States, dated October 10, 2003, which addressed the delivery or exchange of water made available for the San Luis Rey Indian Water Settlement under the CRWDA and the Allocation Agreement

- The Agreement for the Conveyance of Water Among the San Diego County Water Authority, the San Luis Rey Settlement Parties, and the United States, dated October 10, 2003, which addressed the conveyance of water made available for the San Luis Rey Indian Water Settlement under the CRWDA and the Allocation Agreement

Also on October 10, 2003, Reclamation executed the Conservation Agreement among the Bureau of Reclamation, Imperial Irrigation District, Coachella Valley Water District, and the San Diego County Water Authority and executed the Amendment to Amendatory Contract Between the United States of America and Coachella Valley Water District for Replacing a Portion of the Coachella Canal, Amendatory Contract No. 8-07-30-W0007, Amendment No. 2 to conform an amendatory canal replacement contract to Section 210 of the Act of November 17, 1988, Pub. L. No. 100-675, 102 Stat. 4000 (1988).

As of December 31, 2008, State water agencies were pursuing validation of many of the QSA agreements under California State law in multiple contested proceedings consolidated in the Superior Court of the State of California, County of Sacramento, as “In Re: QSA Cases.”

The CRWDA, the Allocation Agreement, and the IOPP are each further discussed later in this chapter.

Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement

The CRWDA, dated October 10, 2003, was entered into among the Secretary, IID, CVWD, MWD, and the SDCWA and is the Federal QSA, which was required as a condition of the ISG (discussed earlier in this chapter). The history of the development of the CRWDA is discussed immediately above in this chapter. The California water agencies also entered into a State QSA, encompassing numerous contracts and agreements to which the Secretary is not a party.

The CRWDA assists California in meeting the goals of the California 4.4 Plan by quantifying for a specific term of years the deliveries under certain Colorado River entitlements within shared priorities, so that transfers may occur. In particular, for the term of the CRWDA, quantification of Priority 3(a) was effected through caps on water deliveries to IID (consumptive use of 3.1 million acre-feet per year) and CVWD (consumptive use of 330,000 acre-feet per year). Quantification of Priority 6(a) was effected through quantifying consumptive use amounts to be made available in order of priority to MWD (38,000 acre-feet per year), IID (63,000 acre-feet per year), and CVWD (119,000 acre-feet per year) with the provision that any additional water available to Priority 6(a) be delivered under IID's and CVWD's existing water delivery contracts with the Secretary. The CRWDA provides that the underlying water delivery contracts with the Secretary remain in full force and effect.

The CRWDA helps to accomplish a series of voluntary Colorado River water transfers by committing the Secretary to deliver a portion of IID's and CVWD's entitlements, as quantified by the CRWDA, to transfer recipients which variously include CVWD, IID[2], MWD, and SDCWA. These transfers assist California in reducing its dependence on Colorado River water through, for example, the implementation of conservation measures within IID which allows for the transfer of the conserved water from IID to other entities in accordance with the terms of the CRWDA. Exhibits A and B to the CRWDA detail the manner in which IID and CVWD entitlements will be delivered by the Secretary during the term of the CRWDA.

The CRWDA also provides a source of water to effect a San Luis Rey Indian water rights settlement. The CRWDA, in particular Exhibits A and B to the CRWDA, recognizes that certain water otherwise available to IID and CVWD under their respective entitlements will be delivered for the benefit of the San Luis Rey Indian water rights settlement parties. The CRWDA also recognizes reductions to IID and CVWD for the benefit of Indian and miscellaneous Present Perfected Right (PPR) holders.

The CRWDA does not limit the Secretary's authority under Article II(B)(3) of the Consolidated Decree in *Arizona* v. *California* to allocate water in times of shortage. If, however, less than 3,850,000 acre-feet of Colorado River water is made available to entities in California under Priorities 1 through 3 during the year, the Secretary agrees in the CRWDA to deliver any water made available to IID and CVWD in the manner provided for in any shortage sharing provisions agreed upon by IID, CVWD, MWD, and SDCWA prior to or concurrent with the execution of the CRWDA.

The CRWDA satisfied the requirement of the 2001 ISG that a QSA be adopted as a prerequisite to the interim surplus determinations by the Secretary in the ISG. The CRWDA further provided an enforcement mechanism to achieve the benchmarks set forth in the 2001 ISG (which were later subsumed into the 2007 Interim Guidelines, as discussed in Chapter 2) for the reduction of California's agricultural use of Colorado River water. The CRWDA provides for

[2] IID's exercise of call rights on canal lining conserved water is in the nature of a transfer in that the exercise of these rights allows IID to use canal lining conserved water, but requires IID to pay a pro rata share of the costs of the canal lining conservation project.

consequences in the event the transfers set forth in the exhibits to the CRWDA do not take place and the benchmarks are not met:

- For a district that does not implement transfers on the transfer schedule for that district set forth in Exhibit B to the CRWDA, the IOPP adopted by the Secretary in 2003 will be suspended for that district and not reinstated until the district is again in compliance.

- Certain overruns must be repaid in a set period.

- MWD will not be permitted to order certain water that may otherwise be available to MWD under the 2001 ISG.

The CRWDA further provides that if the transfers set forth in the exhibits to the CRWDA do not take place and the benchmarks are not met, the Secretary anticipates that a further review of IID, CVWD, and MWD's reasonable and beneficial use of Colorado River water will be required under 43 CFR Part 417.

The CRWDA has a limited scope. The CRWDA provides that Priorities 1, 2, 3(b), 6(b), and 7 of current Section 5 contracts for the delivery of Colorado River water in the State of California and Indian and miscellaneous PPRs within the State of California and other existing surplus water contracts are not affected by the CRWDA.

The CRWDA has a limited term. The agreement terminates on December 31, 2037, if the IID/SDCWA transfer program terminates in that year, or, if not, terminates on December 31, 2047, unless extended by agreement of all parties to a termination date of December 31, 2077. Although the CRWDA may terminate, the CRWDA expressly recognizes that under Federal law, including the Packard Amendment (discussed in Chapter 5 and later in this chapter), the Secretary's commitment in the CRWDA to deliver water for the benefit of the San Luis Rey Indian water rights settlement parties does not.

Allocation Agreement

Colorado River water is delivered to IID through the All-American Canal and to CVWD through the Coachella Canal. The All-American Canal Lining Project and the Coachella Canal Lining Project, authorized by Title II of the Act of November 17, 1988, Pub. L. No. 100-675, 102 Stat. 4000 (1988) (1988 Act), yield conserved water, which is the subject of both the Allocation Agreement and the CRWDA. The canal lining projects are discussed in Chapter 5.

The Allocation Agreement, dated October 10, 2003, provides for the allocation of water determined by the Secretary to be available for allocation from these lining projects and specifies the conditions under which the conserved water will be delivered. The CRWDA incorporates transfers of the water conserved from the lining of the All-American Canal and the Coachella Canal and reflects these transfers in its Exhibit B.

The Allocation Agreement provides a source of water for a water settlement among the San Luis Rey Indian water rights settlement parties and the United States. The Allocation Agreement fulfills the congressional directive in Section 211 of the Act of October 27, 2000, Pub. L. No. 106-377, Appendix B, Title II, 114 Stat. 1141A-70 (2000) (Packard Amendment), which amends Title I of the 1988 Act and requires that the Secretary permanently furnish annually 16,000 acre-feet of the water conserved by the canal lining projects for the benefit of the San Luis Rey Indian water rights settlement parties. (Title I is the San Luis Rey Indian Water Rights Settlement Act. The Packard Amendment is discussed in Chapters 5 and 13.) The 1988 Act conditions the effectiveness of the statutory provision relating to the obligation to deliver this water, in part, on the execution of a water settlement agreement among the San Luis Rey Indian water rights settlement parties which, as of December 31, 2008, had not occurred. Until such time as this and other conditions are met, the water which would otherwise be available for the benefit of the San Luis Rey Indian water rights settlement parties is delivered to MWD, subject to IID call rights as specified in the Allocation Agreement. See Chapter 10 for a discussion of the San Luis Rey Indian water rights settlement negotiations.

The Allocation Agreement further provides that all water available for allocation from the canal lining projects and not allocated for the benefit of the San Luis Rey Indian water rights settlement parties is to be delivered to SDCWA, subject to provisions in the Allocation Agreement relating to shortages and IID call rights. This includes water from the Coachella Canal Lining Project dedicated to, but not needed for, mitigation purposes in any given year.

The Allocation Agreement has a 55-year term with an automatic renewal for an additional 55 years, which will be further extended as necessary to ensure SDCWA receives its full benefits under the Allocation Agreement. Although the Allocation Agreement may terminate, the provisions relating to the Secretary's commitment to deliver water for the benefit of the San Luis Rey Indian water rights settlement parties do not.

Temporary Re-regulation of Excess Flows

In the latter part of 2004 and the early part of 2005, in response to heavy precipitation occurring in the Lower Basin, Reclamation released water from Lake Havasu greater than what was necessary to meet downstream demands. Also, as a result of this precipitation, water ordered by entitlement holders and released from Hoover Dam was not diverted. In an effort to prevent these releases from being lost to beneficial use within the United States as excess flows to the Northerly International Boundary with the United Mexican States (Mexico) (see Chapter 4), Reclamation requested that IID and MWD capture a portion of this water to allow for the temporary re-regulation of these flows.

Reclamation entered into a Letter Agreement for Temporary Re-regulation of Excess Colorado River Flows with IID, dated June 13, 2006. The letter documented the agreement that IID capture and convey certain quantities of Colorado River water to the Salton Sea in 2004 (15,880 acre-feet, stated as a consumptive use amount), 2005 (21,476 acre-feet, stated as a consumptive use amount), and 2006 (depending on hydrology, in amounts as requested by Reclamation and agreed to by IID). Reclamation did not request the temporary re-regulation of water in 2006. The agreement provided that during the year of capture, the water would not be accounted for as a consumptive use. The agreement provided an accounting mechanism to permit the water subject to temporary re-regulation to be restored to Lake Mead in future years.

Reclamation entered into a Letter Agreement for Temporary Re-regulation of Excess Colorado River Flows with MWD, dated June 14, 2006. The letter documented the agreement for MWD to capture and convey certain quantities of Colorado River water to MWD storage facilities in 2005 (21,649 acre-feet, stated as a consumptive use amount) and 2006 (depending on hydrology, in amounts as requested by Reclamation and agreed to by MWD). Reclamation did not request the temporary re-regulation of water in 2006. The agreement provided that during the year of capture, the water would not be accounted for as a consumptive use. The agreement provided an accounting mechanism to permit the water subject to temporary re-regulation to be restored to Lake Mead in future years.

Implementation of the provisions contained in the letter agreements for the temporary re-regulation of excess Colorado River flows did not increase or decrease IID or MWD's entitlements.

Yuma Island

The "Yuma Island" is an area in southern California and in southern Arizona adjacent to the Colorado River near the Mexican border. The Yuma Island is bounded on the south and east by the present channel of the Colorado River and on the north and west by an abandoned levee, commonly known as the Reservation Levee, constructed on the west and north banks of the old Colorado River channel prior to the avulsion in 1920. In 1966, an interstate boundary compact divided the Yuma Island lands between the State of California and the State of Arizona with a "stairstep" boundary. Certain lands which had previously been in Arizona were thereafter recognized as part of California.

As of December 31, 2008, there was a dispute as to whether Colorado River water use on a portion of the Yuma Island lands in California should be accounted for as part of the Yuma Project's entitlement under Priority 2 of the Seven-Party Agreement priorities incorporated into the Colorado River water delivery contracts for California.

The Secretary is required by the Settlement Agreement in *Arizona* v. *California* by and among the Quechan Indian Tribe of the Fort Yuma Indian Reservation, the United States of America, The Metropolitan Water District of Southern California, Coachella Valley Water District, and the State of California, dated February 14, 2005, to make a determination with respect to whether consumptive use of Colorado River water on the Yuma Island should be charged to Priority 2.

Entitlement Actions in the State of Nevada

State of Nevada and Colorado River Commission of Nevada

From 1942 until the mid-1990s, the Colorado River Commission of Nevada (CRCN), acting on behalf of the State of Nevada, was a party to contracts entered into by the Secretary for the delivery of Colorado River water for use within the State of Nevada.

The Contract for Delivery of Water, Contract No. Ilr-1399, dated March 30, 1942, between the United States of America and the State of Nevada, acting through CRCN, as amended by the Supplemental Contract for Delivery of Water, dated January 3, 1944, provided that:

> [T]he United States shall, from storage in Lake Mead, deliver to the State each year at a point or points to be selected by the State and approved by the Secretary, so much water, including all other waters diverted for use within the State of Nevada from the Colorado River system, as may be necessary to supply the State a total quantity not to exceed Three Hundred Thousand (300,000) acre-feet each calendar year.

During the period from 1979 through 2008, the United States entered into several contracts with the State of Nevada, acting through CRCN, amending, supplementing, and superseding the 1942 water delivery contract, as amended in 1944.

On November 12, 1981, the United States and the State of Nevada, acting through CRCN, entered into the Amendatory Contract with the State of Nevada for Delivery of Colorado River Water, Contract No. 1-07-30-W0022. The 1981 amendment substituted “the Colorado River mainstream” in place of “the Colorado River system” in the above-quoted language. The 1981 amendment also provided that the State may enter into subcontracts with other entities for small amounts of Colorado River water (not to exceed 300 acre-feet per year) provided that these subcontracts were for domestic purposes and did not in total exceed 4,000 acre-feet per year.

In addition to other modifications to the earlier contract, the 1981 amendment further provided for the delivery to the State of Nevada of “4 percent of any excess or surplus waters available to the States of Arizona, California, and Nevada, to the extent that such excess or surplus waters are available for use, as determined by the Secretary." The Secretary makes such a determination under Article II(B)(2) of the 1964 Decree in *Arizona* v. *California* which provides that:

> (2) If sufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy annual consumptive use in the aforesaid States in excess of 7,500,000 acre-feet, such excess consumptive use is surplus, and 50% thereof shall be apportioned for use in Arizona and 50% for use in California; provided, however, that if the United States so contracts with Nevada, then 46% of such surplus shall be apportioned for use in Arizona and 4% for use in Nevada.

The Amendatory and Supplementary Contract With the State of Nevada For Delivery of Colorado River Water, Contract No. 4-07-30-W0041, was entered into on November 8, 1983, between the United States and the State of Nevada acting through CRCN. This contract superseded and replaced the January 3, 1944, and the November 12, 1981, amendments, and amended the March 30, 1942, contract, in part, to provide for the delivery of up to 300,000 acre-feet per year of water from the Colorado River mainstream for use in Nevada, to provide for the delivery of 4 percent of any excess or surplus waters as determined by the Secretary, and to provide that the State of Nevada may subcontract with other entities for the delivery of up to 10,000 acre-feet of water per year.

The Amendatory, Supplementary, and Restating Contract With the State of Nevada for the Delivery of Colorado River Water, Contract No. 4-07-30-W0041, Amendment No. 1, was entered into on March 2, 1992, between the United States and the State of Nevada acting through CRCN. This contract superseded and replaced in its entirety the 1942 contract, as amended by the 1983 amendment, and deleted provisions allowing the State of Nevada to subcontract for the delivery of Colorado River water.

The United States and the State of Nevada acting through CRCN, also on March 2, 1992, entered into the Amendatory, Supplementary, and Restating Contract Between the United States and the State of Nevada For the Delivery of Water and Repayment of Project Works, Contract No. 7-07-30-W0004, Amendment No. 1, relating to the Robert B. Griffith Water Project. This contract superseded and replaced in its entirety Contract No. 7-07-30-W0004, dated August 4, 1977. Contract No. 7-07-30-W0004, Amendment No. 1, is a water delivery and repayment contract which provides for an annual diversion not to exceed 299,000 acre-feet of Colorado River water through the Robert B. Griffith Water Project plus system losses not to exceed 9,000 acre-feet per year. Any water delivered under this contract reduces the delivery obligation of the United States under Contract No. 4-07-30-W0041, Amendment No.1 discussed above. The 1977 contract is discussed in *Updating the Hoover Dam Documents 1978*, Chapter II.

On December 29, 1995, Contract No. 7-07-30-W0004, Amendment No. 1 was assigned by Assignment No. 1 from the State of Nevada acting through CRCN to the Southern Nevada Water Authority (SNWA). This assignment was with the written approval of the United States.

Southern Nevada Water Authority

During the 1990s, SNWA became the major Colorado River water delivery agency in Nevada as a result of water delivery contracts entered into with the United States and as a result of the assignment of a water delivery contract from the CRCN.

The Contract With the Southern Nevada Water Authority, Nevada, for the Delivery of Colorado River Water, Contract No. 2-07-30-W0266, dated March 2, 1992, was entered into by the United States, the State of Nevada acting through the Colorado River Commission of Nevada, and SNWA. Under this contract, SNWA received an entitlement to the delivery of Colorado River water that, subject to certain exceptions, includes:

- The uncommitted remainder of the State of Nevada's 300,000-acre-foot apportionment
- Any Colorado River water becoming available by reason of the reduction, expiration, or termination of an entitlement for use within Nevada
- Any surplus water apportioned to Nevada
- Any unused Nevada apportionment
- Any unused Arizona or California apportionment made available to Nevada by the Secretary

The 1992 contract was amended and restated by Contract No. 2-07-30-W0266, Amendment No. 1 on November 17, 1994. This amended and restated contract recognized the assignment of up to 14,550 acre-feet per year of water to SNWA from a 1969 Colorado River water delivery agreement between the United States and Basic Management, Inc., and preserved the priority date of the assigned entitlement. The assignment from Basic Management, Inc. to SNWA was by separate agreement also dated November 17, 1994.

As discussed earlier in this chapter, on December 29, 1995, the March 2, 1992, water delivery and repayment contract for the Robert B. Griffith Water Project was assigned to SNWA. The assigned contract provides for an annual diversion not to exceed 299,000 acre-feet of Colorado River water through the Robert B. Griffith Water Project plus system losses not to exceed 9,000 acre-feet per year.

Factors Affecting Current and Future Contract Administration

43 CFR Part 414: Offstream Storage of Colorado River Water and Development and Release of Intentionally Created Unused Apportionment in the Lower Division States

On November 1, 1999, the Secretary adopted Federal regulations, codified at 43 CFR Part 414, Offstream Storage of Colorado River Water and Development and Release of Intentionally Created Unused Apportionment in the Lower Division States, to create a procedural framework for Colorado River entitlement holders to enter into interstate transactions within the legal framework established by the 1964 Decree in *Arizona* v. *California*, now incorporated into the 2006 Consolidated Decree. The primary mechanism for these transactions is a Storage and Interstate Release Agreement (SIRA) which the Secretary enters into under the authority of Article II(B)(6) of the Consolidated Decree. Under Article II(B)(6), Colorado River water apportioned for use in a Lower Division State (Arizona, California, or Nevada), but not put to use, may be released by the Secretary for use in another Lower Division State during that same year.

A SIRA permits Colorado River water to be stored in a Lower Division State and, in the future, to be used in that State in place of Colorado River water that would otherwise be diverted under an entitlement and put to use. The Secretary, under the authority of II(B)(6), then makes the unused Colorado River water available for use in another Lower Division State in accordance with the terms of the SIRA. 43 CFR Part 414 allows only voluntary interstate transactions – no entitlement holder can be required under these regulations to participate in a SIRA.

There are, at a minimum, three parties to a SIRA: the Secretary, a storing entity, and a consuming entity. Under 43 CFR Part 414, a storing entity must be expressly authorized under State law to enter into a SIRA. In a SIRA, the storing entity agrees to store Colorado River water and, in a future year, upon request of the consuming entity, to ensure a reduction in the storing State's consumptive use of Colorado River water. This can be done by the storing entity making the stored water available to a Colorado River entitlement holder in the storing State, in exchange for the entitlement holder's agreement to forego the use of an equivalent amount of its Colorado River entitlement. Under the provisions of 43 CFR Part 414, this unused Colorado River water becomes Intentionally Created Unused Apportionment (ICUA), which the Secretary can then release under Article II(B)(6) and the terms of the SIRA to the consuming entity for use in a different Lower Division State.

43 CFR Part 414 provides that the SIRA must identify the quantity of water to be stored and the facilities in which it will be stored. The SIRA must also specify whether the water to be stored is water apportioned by the Secretary to the storing State or to the consuming State. If the water to be stored has been apportioned to the storing State, then it must first be offered to all other Colorado River

entitlement holders in that State before it can be stored. If the water to be stored was apportioned to the consuming State, then it must be transferred by the Secretary under Article II(B)(6) of the Consolidated Decree to the storing State for storage to occur.

43 CFR Part 414 requires that the SIRA specify the process for verifying that Colorado River water has been stored under the terms of the SIRA. The SIRA must also require the storing entity to certify to the Secretary that ICUA has been or will be developed. The Secretary will only release ICUA to a consuming entity in the year and to the extent ICUA is developed or will be developed by the storing entity through reduction of Colorado River water use in the storing State. A release of ICUA which has not yet been developed is known as an anticipatory release under 43 CFR 414. The Secretary will only make an anticipatory release after verifying that the ICUA will, in fact, be developed later in that same year.

43 CFR Part 414 also requires that the storing entity file an annual report with the Secretary identifying the quantity of Colorado River water stored the previous year under a SIRA and the total quantity of stored water available to support the development of ICUA under each SIRA to which the storing entity is a party. The regulations further provide that the Secretary, in the annual decree accounting report filed with the Supreme Court under Article V of the Consolidated Decree, will report Colorado River water diverted and stored under a SIRA as a consumptive use in the storing State in the year of storage, and will report ICUA released in a future year as a consumptive use in the consuming State in the year of release.

The financial details of the transaction, for example, payment of the costs to store the water, are not required to be addressed in the SIRA but may be the subject of separate agreements to which the Secretary is not a party.

As of 2008, two SIRAs have been entered into under 43 CFR Part 414.

The first SIRA, Contract No. 02-XX-30-W0406, was entered into on December 18, 2002, among the United States, the Arizona Water Banking Authority (AWBA), SNWA, and the CRCN. The agreement's term is until June 1, 2050, or until termination of the Agreement for Interstate Water Banking (discussed later in this chapter), whichever occurs first. This agreement provides that:

- AWBA will store water for the benefit of SNWA
- The water stored will be from either the State of Arizona's basic or surplus apportionment or the State of Nevada's unused basic or surplus apportionment released to the State of Arizona by the Secretary under Article II(B)(6)

- The water will be stored in Arizona in storage facilities for which the AWBA has storage agreements

- The long-term storage credits developed by AWBA under State law on behalf of SNWA will not exceed 200,000 acre-feet per year or 1,200,000 acre-feet over the term of the SIRA

- SNWA will receive 50,000 acre-feet of storage credits developed under a Central Arizona Water Conservation District (CAWCD) demonstration project in the early 1990s and transferred by CAWCD to AWBA for credit to SNWA's account (not counted toward the above caps)

- Storage credits held by others with AWBA may be assigned to SNWA and will count toward the above caps

- ICUA will be developed by AWBA at the request of SNWA by making the stored water available to CAWCD, which will then reduce its diversions of Colorado River water

- The Secretary will deliver the ICUA to SNWA, in amounts not to exceed 100,000 acre-feet in any year or in excess of 1,250,000 acre-feet over the term of the SIRA; the 1,250,000-acre-foot cap includes the 50,000 acre-feet related to the CAWCD demonstration underground storage project

The SIRA further provides that in years in which the Secretary declares a shortage under Article II(B)(3) of the Decree (now of the Consolidated Decree), AWBA's obligation to develop ICUA will be limited as provided for in the Agreement for Interstate Water Banking.

The second SIRA, Contract No. 04-XX-30-W0430, was entered into on October 27, 2004, among the United States, MWD, SNWA, and CRCN. The agreement is in effect until terminated by 90 days' written notice from SNWA or MWD. This agreement provides that:

- MWD will store water for the benefit of SNWA

- The water stored will be from the State of Nevada's unused basic or surplus apportionment, released to the State of California by the Secretary under Article II(B)(6)

- The water will be stored in storage facilities in California under MWD's control

- SNWA will not request the storage of water under this SIRA, except to the extent that, in any year, water stored for SNWA by AWBA under the Agreement for Interstate Water Banking among AWBA, SNWA, and

CRCN is less than 200,000 acre-feet, unless the Secretary has first taken such actions as may be necessary for environmental compliance for storage in excess of 200,000 acre-feet

- At the request of SNWA, ICUA will be developed by MWD by delivering the stored water to its member agencies in lieu of diverting Colorado River water to which MWD is otherwise entitled, with the amount of ICUA to be developed in any year not to exceed the lesser of 30,000 acre-feet (unless MWD agrees to a larger amount) or the previous end-of-year balance in the SNWA storage account established by MWD

- SNWA will not request the development in any year of more than an aggregate of 100,000 acre-feet of ICUA under this SIRA and under the December 18, 2002, SIRA among the United States, AWBA, SNWA, and CRCN, unless the Secretary has first taken such actions as may be necessary for environmental compliance for the development of ICUA in excess of the aggregate of 100,000 acre-feet in any year

Inadvertent Overrun and Payback Policy (IOPP)

The Secretary adopted the IOPP contemporaneously with the execution of the CRWDA. Both are set forth in the *Record of Decision, Colorado River Water Delivery Agreement, Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions, Final Environmental Impact Statement* (2003 ROD), dated October 10, 2003, and published in the *Federal Register* at 69 Fed. Reg. 12202 (March 15, 2004). In the CRWDA, the Secretary agrees "not to materially modify the Inadvertent Overrun and Payback Policy for a 30-year period, absent extraordinary circumstances such as significant Colorado River infrastructure failures," subject to the shortage provisions in Section 5 of the CRWDA. The CRWDA also describes particular circumstances under which the IOPP may be suspended for certain districts that are party to the CRWDA in the event that transfer schedules or benchmarks are not met (see discussion earlier in this chapter of the CRWDA).

The IOPP provides additional flexibility to Colorado River management and applies to entitlement holders within the Lower Division States. The IOPP defines inadvertent overruns as Colorado River water diverted, pumped, or received by an entitlement holder of the Lower Division States that is in excess of the water user's entitlement for that year. Colorado River entitlements are for permanent service and are stated in terms of an annual diversion or consumptive use, in such amounts as can reasonably be put to beneficial use subject to the limitation of the entitlement. The Secretary determines the amount of water reasonably required for beneficial use on an annual basis by evaluating an entitlement holder's estimated water requirements in accordance with 43 CFR Part 417 to ensure that deliveries of Colorado River water to the entitlement holder will not exceed those reasonably required for beneficial use under the respective BCPA contract or other authorization for use of Colorado River water. In the event of an overrun, the IOPP provides a structure to govern the payback of the overrun.

In accordance with the IOPP, inadvertent overruns are reported in the annual decree accounting report filed with the Supreme Court under Article V of the Consolidated Decree in *Arizona* v. *California*. The report identifies overrun accounts for individual entitlement holders. The establishment of an individual overrun account in the annual report does not expand the underlying entitlement to include the overrun but, rather, identifies the amount of an entitlement holder's consumptive use that is subject to the payback provisions of the IOPP. The IOPP provides that an individual inadvertent overrun account may not, at any given time, exceed "10 percent of an entitlement holder's normal year consumptive use entitlement."

The IOPP requires payback to begin in the calendar year following the publication of the annual decree accounting report identifying an overrun, except in a Shortage Condition. Payback is accomplished through an entitlement holder's implementation of extraordinary conservation measures, which are identified in the IOPP as "measures that are above and beyond the normal reasonable and beneficial consumptive use of water." Payback may also include supplementing Colorado River system water supplies with nonsystem water supplies through exchange or forbearance. After an overrun is identified in an annual Consolidated Decree accounting report, the extent to which payback is required in any given year is governed by the circumstances set forth in the IOPP. Examples of differing circumstances affecting a given year's payback obligation include whether the Secretary has made a flood control release or a determination of a Shortage Condition. Under the terms of the IOPP, Lake Mead elevations may also govern the period in which payback occurs.

The IOPP provides that procedures will be established for accounting for inadvertent overruns on an annual basis and for supplementing the final decree accounting reports. As of December 31, 2008, these procedures were under development.

Use of Colorado River Water Without an Entitlement

In 2008, Reclamation published a proposed rule in the *Federal Register* entitled "Regulating the Use of Lower Colorado River Water Without an Entitlement," proposed as a new 43 CFR Part 415. See 73 Fed. Reg. 40916 (July 16, 2008). The proposed rule provides a framework for identifying and curtailing the use of mainstream Colorado River water in the Lower Basin without an entitlement under the BCPA, the Consolidated Decree, or Secretarial Reservation. Most of the Colorado River water used without an entitlement is water drawn from the Colorado River mainstream by underground pumping. As of December 31, 2008, the use of Colorado River water in the Lower Basin without an entitlement was estimated at 10,000 to 15,000 acre-feet annually. The rule, as proposed, would:

- Establish the methodology that Reclamation will use to determine if a well pumps water that is replaced with water drawn from the lower Colorado River

- Establish a process for a water user to appeal a determination that a specific well pumps water that would be replaced by water drawn from the lower Colorado River

- Inform persons taking Colorado River water without an entitlement about the existence of potential options to bring their use of Colorado River water in the Lower Basin into compliance with Federal law

The rulemaking process was ongoing as of December 31, 2008.

State of Arizona Post-1978 Annual Water Entitlements

Each Colorado River water entitlement bears a priority. Until 1992, the priorities used for the delivery of Colorado River water within the State of Arizona were characterized in three time bands: (1) entitlements existing before June 25, 1929; (2) entitlements existing between June 25, 1929, and September 30, 1968 (the date of the authorization of the CAP); and (3) entitlements existing after September 30, 1968.

Beginning in September 1992, the priorities used for the delivery of Colorado River water within Arizona were characterized as illustrated in Table 6-3.

Table 6-3. Arizona Priority System

Priority	Rights to be Satisfied
First	Present Perfected Rights (PPRs) established prior to June 25, 1929, as recognized in *Arizona* v. *California* Consolidated Decree
Second[1]	Secretarial Reservations and Perfected Rights established or effective prior to September 30, 1968
Third[1]	Entitlements pursuant to contracts executed on or before September 30, 1968
Fourth	Entitlements (i) pursuant to contracts, Secretarial Reservations, Perfected Rights, and other arrangements between the United States and water users in the State of Arizona entered into or established subsequent to September 30, 1968, for use on Federal, State, or privately owned lands in the State of Arizona (for a total quantity of not to exceed 164,652 acre-feet of diversions annually); and (ii) Contract No. 14-06-W-245, dated December 15, 1972, as amended, between the United States and the Central Arizona Water Conservation District for the delivery of Mainstream Water for the Central Arizona Project, including use of Mainstream Water on Indian lands. Entitlements in (i) and (ii) are coequal.
Fifth	Entitlements to unused Arizona entitlement or unused apportionment water
Sixth	Entitlements to surplus water

[1]The Arizona 2nd and 3rd priority entitlements are co-equal in their priority.

Beginning in the early 2000s, and as of December 31, 2008, in large part due to the increase of water banking programs within the State of Arizona by which existing entitlement holders developed credits from the storage of Colorado River water, Reclamation was no longer entering into new contracts for 5th and 6th priority water.

Colorado River Water Delivery Contract Actions in Arizona

During the period from 1979 through 2008, the United States entered into several contracts with entities within the State of Arizona with regard to Colorado River water deliveries, including:

- April 13, 1979, Reclamation letter reducing Mohave Valley Irrigation and Drainage District (MVIDD) entitlement under Contract No. 14-06-W-204, dated November 14, 1968, by 10,000 acre-feet of Arizona fourth-priority water, in accordance with the provisions of the contract because certain lands were not included within the district. The MVIDD entitlement, as modified, is then for 41,000 acre-feet of Arizona fourth-priority water.

- June 7, 1979, Contract No. 9-07-30-W0012, Mohave Water Conservation District, for the diversion of up to 1,800 acre-feet per year of Arizona fourth-priority water previously allocated to MVIDD under Contract No. 14-06-W-204, dated November 14, 1968, and made available for reallocation by the April 13, 1979, reduction in the MVIDD entitlement.

- July 17, 1981, Contract No. 1-07-30-W0021, Wellton-Mohawk Irrigation and Drainage District (WMIDD), among other things, to consolidate several contracts into one document. The WMIDD entitlement in the consolidated contract is for 300,000 acre-feet per year of consumptive use, of which up to 5,000 acre-feet per year may be for domestic use.

- June 4, 1982, Contract No 2-07-30-W0025, Town of Parker, for PPR No. 20 for not to exceed (1) a diversion of up to 630 acre-feet per year, or (2) the quantity of mainstream water necessary to supply the consumptive use of 400 acre-feet per year, whichever is less.

- July 7, 1982, Contract No. 2-07-30-W0027, Mohave County, for the diversion of up to 10,000 acre-feet per year of Arizona fourth-priority water previously allocated to MVIDD under Contract No. 14-06-W-204, dated November 14, 1968, and made available for reallocation by the April 13, 1979, reduction in the MVIDD entitlement. Of the 10,000 acre-feet reallocated to Mohave County, up to 1,800 acre-feet per year was conditioned upon the execution of a subcontract with Mohave Water Conservation District, which was not executed, and the Mohave County entitlement was reduced by 1,800 acre-feet. The Mohave County entitlement, as modified, is then for the diversion of up to 8,200 acre-feet per year of Arizona fourth-priority water. Mohave Water Conservation

District continues to have a contract dated June 7, 1979, for 1,800 acre-feet per year of Arizona fourth-priority water.

- January 31, 1983, Contract No. 2-07-30-W0028, Cibola Valley Irrigation and Drainage District (CVIDD), for the diversion of up to 22,560 acre-feet per year of Arizona fourth-priority water.

- August 25, 1983, Contract No. 3-07-30-W0038, Gold Standard Mines Corp., for the diversion of up to 75 acre-feet per year of Arizona fourth-priority water.

- August 29, 1983, Contract No. 3-07-30-W0037, Armon Curtis (Curry Family Ltd.), for the diversion of up to 300 acre-feet per year of Arizona fourth-priority water.

- September 29, 1983, Contract No. 3-07-30-W0039, Lake Havasu Irrigation and Drainage District, to amend Contract No. 14-06-W-203, dated November 14, 1968, to increase by 301 acre-feet per year the previous entitlement for the diversion of up to 14,500 acre-feet per year of Arizona fourth-priority water, and to increase the size of the service area. The district entitlement under Contract No. 14-06-W-203, as modified by Contract No. 3-07-30-W0039, is then for 14,801 acre-feet per year of Arizona fourth-priority water.

- October 19, 1983, Contract No. 4-07-30-W0042-PPR, Arthur E. Graham assignment to Consolidated Water Utilities, Ltd. of PPR No. 9 for up to 360 acre-feet per year.

- November 9, 1983, Amendatory and Consolidated Contract No. 4-07-30-W0042, Consolidated Water Utilities, Ltd., for the diversion of up to 320 acre-feet per year of Arizona fourth-priority water, of which 120 acre-feet per year was acquired from the Lakeside Utilities, Inc. Contract No. 7-07-30-W0001, dated April 1, 1977 (assigned to Graham Water Utilities, Inc.) and 200 acre-feet per year was acquired from the Holiday Harbor Utilities Company Contract No. 7-07-30-W0003, dated June 16, 1977, and for PPR No. 9 for up to 360 acre-feet per year assigned from Arthur E. Graham. This contract supersedes Contract No. 7-07-30-W0001 and Contract No. 7-07-30-W0003.

- March 20, 1984, Contract No. 4-07-30-W0052, J.L. and Flora Hurschler, for PPR No. 11 for up to 1,050 acre-feet per year.

- October 24, 1984, Contract No. 5-07-30-W0057, Dulin Farms, for the diversion of up to 2,016 acre-feet per year of Arizona fourth-priority water.

- October 29, 1984, Contract No. 5-07-30-W0064, Raynor Ranches, for the diversion of up to 4,500 acre-feet per year of Arizona fourth-priority water.

- December 1, 1984, Contract No. 5-07-30-W0076, Auza Farms, Inc., for the diversion of up to 961.8 acre-feet per year of Arizona fourth-priority water.

- December 3, 1984, Contract No. 5-07-30-W0066, Jamar Produce Corporation, for the diversion of up to 480 acre-feet per year of Arizona fourth-priority water.

- March 8, 1985, Contract No. 5-07-30-W0078, Hillcrest Water Company, for the diversion of up to 84 acre-feet per year of Arizona fourth-priority water.

- June 27, 1985, Contract No. 5-07-30-W0093, Yuma Irrigation District, to supplement and amend YID's water delivery and repayment contract to reduce the shared entitlement of YMIDD, NGVID, and YID by 50,000 acre-feet. The shared entitlement, as modified, is for the beneficial consumptive use of up to 250,000 acre-feet of water per year. The reduction of 50,000 acre-feet per year is to facilitate implementation of the obligation of the United States to provide water to the Ak-Chin Indian Community. See Chapter 10.

- June 27, 1985, Contract No. 5-07-30-W0094, North Gila Valley Irrigation District, to supplement and amend NGVID's water delivery and repayment contract to reduce the shared entitlement of YMIDD, NGVID, and YID by 50,000 acre-feet. The shared entitlement, as modified, is for the beneficial consumptive use of up to 250,000 acre-feet of water per year. The reduction of 50,000 acre-feet per year is to facilitate implementation of the obligation of the United States to provide water to the Ak-Chin Indian Community. See Chapter 10.

- June 27, 1985, Contract No. 5-07-30-W0095, Yuma Mesa Irrigation and Drainage District, to supplement and amend YMIDD's water delivery and repayment contract to reduce the shared entitlement of YMIDD, NGVID, and YID by 50,000 acre-feet. The shared entitlement, as modified, is for the beneficial consumptive use of up to 250,000 acre-feet of water per year. The reduction of 50,000 acre-feet per year is to facilitate implementation of the obligation of the United States to provide water to the Ak-Chin Indian Community. See Chapter 10.

- December 2, 1985, unnumbered assignment agreement, Mohave County assignment to Bullhead City of Contract, No. 2-07-30-W0027, dated

July 7, 1982, for the diversion of up to 8,200 acre-feet per year of Arizona fourth-priority water (previously reduced from 10,000 acre-feet per year in accordance with Article 4(a)).

- February 11, 1986, Contract No. 5-07-30-W0065, Ansel Gary Hall, Lula DeAnn Westover, Cheree Dawn Emery, Max Arave Hall, Bennie Reed Hall, and Vicky Jeanne Shoopman, for the diversion of up to 510 acre-feet per year of Arizona fourth-priority water.

- February 24, 1986, Contract No. 6-07-30-W0124, Estates of Edward P. and Anna Roy, for the diversion of up to 1 acre-foot per year of Arizona fourth-priority water.

- October 21, 1987, Amendment No. 1 to Contract No. 3-07-30-W0039, Lake Havasu Irrigation and Drainage District, to increase its entitlement under the September 29, 1983, contract by 30 acre-feet of Arizona fourth-priority water. The district's entitlement, as modified, is then for the diversion of up to 14,831 acre-feet per year of Arizona fourth-priority water.

- March 16, 1988, Contract No. 8-07-30-W0184, Havasu Water Company, for the diversion of up to 993 acre-feet per year of Arizona fourth-priority water.

- December 1, 1988, Amendment No. 1 to Contract No. 14-06-W-245, CAWCD, to increase the ceiling for CAWCD's repayment obligation. See Chapter 5.

- June 1, 1989, Contract No. 9-07-30-W0203, Golden Shores Water Conservation District, for the diversion of up to 2,000 acre-feet per year of Arizona fourth-priority water with specified amounts allocated for use on lands within district boundaries, for use on private lands outside district boundaries, and for use on adjacent State lands.

- February 9, 1990, Amendment No. 1 to Contract No. 1-07-30-W0021, WMIDD, to reduce the WMIDD entitlement under the July 17, 1981 contract by 22,000 acre-feet of water to facilitate Section 7 of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988. See Chapter 10. The WMIDD entitlement, as modified, is then for the consumptive use of no more than 278,000 acre-feet of water per year, of which up to 5,000 acre-feet per year may be for domestic use.

- June 6, 1990, Contract No. 0-07-30-W0250, Gold Dome Mining Corporation, for the diversion of up to 7 acre-feet per year of Arizona fourth-priority water.

- May 26, 1992, Assignment No. 1 to Contract No. 5-07-30-W0076, Auza Farms, Inc., assignment to The Curtis Family Trust, of the December 1, 1984, contract for the diversion of up to 961.8 acre-feet per year of Arizona fourth-priority water.

- September 2, 1992, Amendment No. 1 to Contract No. 2-07-30-W0028, CVIDD, to increase the previous entitlement by up to 1,560 acre-feet per year of Arizona fourth-priority water, up to 3,000 acre-feet per year of unused Arizona entitlement and up to 4,000 acre-feet per year of surplus water; and to supersede the January 31, 1983, contract. The CVIDD entitlement, as modified, is then for the diversion of up to 24,120 acre-feet per year of Arizona fourth-priority water, up to 3,000 acre-feet per year of unused Arizona entitlement, and up to 4,000 acre-feet per year of surplus water.

- March 15, 1994, Assignment No. 1 of Contract No. 4-07-30-W0052, J.L. and Flora Hurschler assignment to Holpal, a California limited partnership, of the March 20, 1984, PPR contract for PPR No. 11 for up to 1,050 acre-feet per year.

- November 9, 1994, Contract No. 2-07-30-W0273, Bullhead City, contract for the diversion of up to 15,210 acre-feet per year of Arizona fourth-priority water (8,200 acre-feet of water assigned from Mohave County on December 2, 1985, and an additional 7,010 acre-feet of water); and to supersede and replace Contract No. 2-07-30-W0027.

- October 4, 1995, Assignment of Contract No. 14-06-W-203 and Contract No. 3-07-30-W0039 and its Amendment No. 1, Lake Havasu Irrigation and Drainage District assignment to Lake Havasu City of the September 29, 1983, contract, as amended October 21, 1987, for the diversion of up to 14,831 acre-feet per year of Arizona fourth-priority water.

- October 4, 1995, Amendment No. 2 to Contract No. 3-07-30-W0039, Lake Havasu City, to increase Lake Havasu City's entitlement by 4,349 acre-feet of Arizona fourth-priority water; and to supersede and replace Contract No. 14-06-W-203, dated November 14, 1968, and Contract No. 3-07-30-W0039, dated September 29, 1983, and its Amendment No. 1, dated October 21, 1987. The Lake Havasu City entitlement, as modified, is then for the diversion of up to 19,180 acre-feet per year of Arizona fourth-priority water plus unused Arizona entitlement and/or surplus water in amounts not specified.

- December 12, 1995, Contract No. 5-07-30-W0320, Mohave County Water Authority (MCWA), for the diversion of up to 15,000 acre-feet per year of Arizona fourth-priority water and up to 3,500 acre-feet per year of unused

Arizona entitlement, and for the diversion of additional unused Arizona entitlement and surplus water in amounts to be determined upon request.

- May 1, 1996, Contract No. 5-07-30-W0322, Marble Canyon Company, Inc., for the diversion of up to 70 acre-feet per year of Arizona fourth-priority water and unused Arizona entitlement and/or surplus water in amounts not specified.

- August 24, 1996, Supplementary Contract to Contract No. I76r-671 and Contract No. 14-06-300-621, YCWUA, to provide for the voluntary irrevocable conversion from irrigation use to domestic use of individual entitlements and for the delivery of the water. Discussed earlier in this chapter.

- June 13, 1997, Acknowledgment No. 1 of Contract No. 4-07-30-W0042, to acknowledge the Consolidated Water Utilities assignment to Brooke Water L.L.C. of the November 9, 1983, contract for the diversion of up to 320 acre-feet per year of Arizona fourth-priority water and for PPR No. 9 of up to 360 acre-feet per year.

- July 28, 1997, Contract No. 6-07-30-W0337, Sturges Farms, Inc. (Gila Monster Ranch), for the diversion of up to 6,285 acre-feet of Arizona third-priority water, up to 1,435 acre-feet per year of Arizona fourth-priority water, up to 656 acre-feet per year of unused Arizona entitlement, and for PPR No. 16 for up to 780 acre-feet per year.

- August 4, 1997, Amendment No. 2 to Contract No. 14-06-W-106, City of Yuma, to clarify that the City of Yuma's water entitlement is for up to 50,000 acre-feet per year on a consumptive use basis.

- November 21, 1997, Contract No. 6-07-30-W0352, Crystal Beach Water Conservation District, for the diversion of up to 132 acre-feet per year of Arizona fourth-priority water.

- January 6, 1998, Town of Parker, Amendment No. 1 to Contract No. 2-07-30-W0025, for the diversion of up to 1,030 acre-feet per year of Arizona fourth-priority water, 2,000 acre-feet per year of unused Arizona entitlement and/or surplus water, in addition to the previous entitlement for PPR No. 20 for not to exceed (1) a diversion of up to 630 acre-feet per year or (2) the quantity of mainstream water necessary to supply the consumptive use of 400 acre-feet each year, whichever is less; and to supersede and replace Contract No. 2-07-30-W0025, dated June 4, 1982.

- July 31, 1998, Contract No. 7-07-30-W0355, Maurice L. McAlister, for the diversion of up to 40 acre-feet per year of Arizona fourth-priority water.

- August 17, 1998, Contract No. 7-07-30-W0364, Arizona State Parks Board, for the diversion of up to 90 acre-feet per year of Arizona fourth-priority water.

- January 28, 1999, Contract No. 7-07-30-W0353, Town of Quartzsite, for the diversion of up to 1,070 acre-feet per year of Arizona fourth-priority water.

- June 28, 1999, Contract No. 4-07-30-W0317, Arizona State Land Department, for the diversion of up to 6,607 acre-feet per year of Arizona fourth-priority water and up to 9,067.2 acre-feet per year of unused Arizona entitlement and/or surplus water.

- October 3, 2000, Contract No. 6-07-30-W0336, Arizona Public Service Company and IID, for the diversion of up to 1,500 acre-feet per year of unused Arizona entitlement and/or surplus water.

- January 23, 2001, Contract No. 00-XX-30-W0391, Havasu Water Company, contract, to increase by 427 acre-feet per year its existing entitlement for the diversion of up to 993 acre-feet per year of Arizona fourth-priority water; and to supersede and replace Contract No. 2-07-30-W0025, dated March 16, 1988. The Havasu Water Company entitlement, as modified, is then for the diversion of up to 1,420 acre-feet per year of Arizona fourth-priority water.

- July 11, 2001, Assignment No. 1 of Contract No. 5-07-30-W0066, Jamar Produce Corporation assignment to North Baja Pipeline LLC of the December 3, 1984, contract for the diversion of up to 480 acre-feet per year of Arizona fourth-priority water.

- December 27, 2001, Amendment No. 1 to Contract No. 9-07-30-W0203, Golden Shores Water Conservation District, to redistribute the allocation between the lands within the district boundaries and certain private lands outside the district boundaries, with the allocation for adjacent State lands unchanged, and with the quantity of the district's entitlement unchanged.

- October 11, 2002, Assignment No. 1 of Contract No. 00-XX-30-W0391, Havasu Water Company assignment to Arizona-American Water Company of the January 23, 2001, contract for the diversion of up to 1,420 acre-feet per year of Arizona fourth-priority water.

- March 27, 2003, Assignment and Amendment No. 1 of Contract No. 5-07-30-W0065, Ansel Gary Hall, Lula DeAnn Westover, Cheree Dawn Emery, Max Arave Hall, Bennie Reed Hall, and Vicky Jeanne Shoopman assignment to Gary J. and Barbara J. Pasquinelli of Contract No. 5-07-30-W0065 dated February 11, 1986, and the reduction of the entitlement under that contract by 24 acre-feet per year of Arizona fourth-priority water. The Gary J. and Barbara J. Pasquinelli entitlement, as modified, is then for the diversion of up to 486 acre-feet per year of Arizona fourth-priority water.

- September 4, 2003, Contract No. 01-XX-30-W0398, George Ogram, for the diversion of up to 480 acre-feet per year of Arizona fourth-priority water.

- September 2, 2004, Contract No. 7-07-30-W0358, Arizona State Land Department, for the diversion of up to 1,534 acre-feet per year of Arizona fourth-priority water.

- December 14, 2004, Amendment No. 2 to Contract No. 2-07-30-W0028, CVIDD, to reduce CVIDD's entitlement by 11,994 acre-feet of Arizona fourth-priority water, by 1,500 acre-feet of unused Arizona entitlement, and by 2,000 acre-feet of surplus water to allow for partial assignment to the Hopi Tribe and to MCWA. The CVIDD entitlement, as modified, is then for the diversion of up to 12,126 acre-feet per year of Arizona fourth-priority water, up to 1,500 acre-feet per year of unused Arizona entitlement, and up to 2,000 acre-feet per year of surplus water.

- December 14, 2004, Contract No. 04-XX-30-0432, Hopi Tribe, for the diversion of up to 5,997 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water, assigned from CVIDD.

- December 14, 2004, Contract No. 04-XX-30-W0431, MCWA, contract for the diversion of up to 5,997 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water, assigned from CVIDD.

- May 16, 2005, Amendment No. 2 to Contract No. 9-07-30-W0203, Golden Shores Water Conservation District, to further redistribute the allocation between the lands within the district boundaries and certain private lands outside the district boundaries, with the allocation for adjacent State lands unchanged, and with the quantity of the district's entitlement unchanged.

- July 1, 2005, Contract No. 01-XX-30-W0402, Ogram Boys Enterprises, Inc., for the diversion of up to 924 acre-feet per year of Arizona fourth-priority water.

- August 3, 2005, Assignment No. 2 of Contract No. 4-07-30-W0052, Holpal, a California limited partnership, assignment to First American

Title Insurance Agency of Mohave, Incorporated of March 20, 1984, contract for PPR No. 11 for up to 1,050 acre-feet per year.

- August 12, 2005, Contract No. 04-XX-30-W0433, North Baja Pipeline, LLC, for a change in type of use of water; and to supersede and replace Contract No. 5-07-30-W0066 with Jamar Produce Corporation, dated December 3, 1984, and assigned to North Baja Pipeline, LLC on July 11, 2001. The North Baja Pipeline, LLC entitlement, as modified, is for the diversion of up to 408 acre-feet per year for irrigation use and up to 72 acre-feet per year of domestic use for a total entitlement of up to 480 acre-feet per year of Arizona fourth-priority water.

- December 20, 2005, Assignment No. 1 of Contract No. 5-07-30-W0057, Dulin Farms assignment to Jessen Family Limited Partnership for the diversion of up to 1,080 acre-feet per year of Arizona fourth-priority water from the October 24, 1984, contract; and Dulin Farms assignment to CHACHA, LLC for the diversion of up to 936 acre-feet per year of Arizona fourth-priority water, from the October 24, 1984, contract.

- February 8, 2006, Contract No. 03-XX-30-W0419, City of Somerton, for the diversion of up to 750 acre-feet per year of Arizona fourth-priority water.

- February 17, 2006, Contract No. 05-XX-30-W0446, Beattie Farms Southwest, for the diversion of up to 1,110 acre-feet per year of Arizona fourth-priority water.

- April 11, 2006, Amendment No. 3 to Contract No. 9-07-30-W0203, Golden Shores Water Conservation District, to further redistribute the allocation between the lands within the district boundaries and certain private lands outside the district boundaries, with the allocation for adjacent State lands unchanged, and with the quantity of the district's entitlement unchanged.

- June 30, 2006, Amendment No. 3 to Contract No. 2-07-30-W0028, CVIDD, to transfer 60 acre-feet of Arizona fourth-priority water to Cibola Resources, LLC and to decrease CVIDD's entitlement by an equivalent amount. The CVIDD entitlement, as modified, is then for the diversion of up to 12,066 acre-feet per year of Arizona fourth-priority water, up to 1,500 acre-feet per year of unused Arizona entitlement, and up to 2,000 acre-feet per year of surplus water.

- June 30, 2006, Contract No. 06-XX-30-W0449, Cibola Resources, LLC, for the diversion of up to 60 acre-feet per year of Arizona fourth-priority water assigned from CVIDD.

- October 25, 2006, Contract No. 06-XX-30-W0449, Assignment and Transfer, Cibola Resources, LLC assignment and transfer to B&F Investment, LLC of the entitlement to divert up to 60 acre-feet per year of Arizona fourth-priority water under Contract No. 06-XX-30-W0449, dated June 30, 2006.

- October 25, 2006, Contract No. 06-XX-30-W0453, B&F Investment, LLC, for the diversion of up to 60 acre-feet per year of Arizona fourth-priority water, recognizing the assignment and transfer to B&F Investment, LLC, of the Cibola Resources entitlement under Contract No. 06-XX-30-W0449, dated June 30, 2006; to provide for a change in type of use, place of use, and point of diversion; and to supersede and replace Contract No. 06-XX-30-W0449.

- December 21, 2006, Contract No. 06-XX-30-W0450, Fisher's Landing Water and Sewer Works, LLC, for the diversion of up to 53 acre-feet per year of Arizona fourth-priority water.

- March 16, 2007, Contract No. 05-XX-30-W0444, Brooke Water Company L.L.C. to increase its existing entitlement by an additional 120 acre-feet of Arizona fourth-priority water; and to supersede and replace Contract No. 4-07-30-W0042, dated November 9, 1983. The Brooke Water Company L.L.C. entitlement, as modified, is then for the diversion of up to 440 acre-feet per year of Arizona fourth-priority water, and for PPR No. 9 for up to 360 acre-feet per year of water.

- June 22, 2007, Amendment No. 1 to Contract No. 5-07-30-W0320, MCWA, to add 3,500 acre-feet of Arizona fourth-priority water to MCWA's entitlement under the December 12, 1995, contract and to partially quantify MCWA's previously unquantified entitlements to unused Arizona entitlement and Arizona surplus water under that contract. The MCWA entitlement under this contract, as modified, is then for a diversion of up to 18,500 acre-feet per year of Arizona fourth-priority water, and as determined upon request, but not less than 750 acre-feet per year of unused Arizona entitlement, and as determined upon request, but not less than 1,000 acre-feet per year of surplus water.

- July 6, 2007, Amendment No. 1 to Contract No. 04-XX-30-W0431, MCWA, to allow MCWA to use its existing entitlement under this contract within two contract service areas, subject to certain terms and conditions. The MCWA entitlement under this contract is for the diversion of up to 5,997 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet of surplus water per year.

- August 14, 2007, Supplement No. 1 to Contract No. 14-06-W-245, Amendment No. 1, CAWCD, to enable CAWCD to fulfill its Central Arizona Groundwater Replenishment District function, an entitlement of up to 7,746 acre-feet of CAP M&I water per year assigned to CAWCD by CAP subcontractors (944 acre-feet from Sunrise Water Company, 157 acre-feet from West End Water Company, 4,760 acre-feet from Litchfield Park Service Company; and 1,885 acre-feet from New River Utility Company).

- September 25, 2007, Amendment No. 2 to Contract No. 04-XX-30-W0431, MCWA, to assign to Arizona Game and Fish Commission the diversion of 1,419 acre-feet per year of Arizona fourth-priority water, 750 acre-feet per year of unused Arizona entitlement, and 1,000 acre-feet per year of surplus water and to reduce the MCWA entitlement by equivalent amounts. The MCWA entitlement under this contract, as modified, is then for the diversion of up to 4,578 acre-feet per year of Arizona fourth-priority water.

- September 25, 2007, Contract No. 07-XX-30-W0509, Arizona Game and Fish Commission, for the diversion of up to 1,419 acre-feet per year of Arizona fourth-priority water (of which 119 acre-feet is for Federal lands) and up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water, assigned from MCWA Contract No. 04-XX-30-W0431.

- September 27, 2007, Contract No. 06-XX-30-W0448, JRJ Partners, L.L.C. (formerly Jessen Family Limited Partnership), for the diversion of up to 1,080 acre-feet per year of Arizona fourth-priority water, assigned to Jessen Family Limited Partnership by Dulin Farms on December 20, 2005 from Contract No. 5-07-30-W0057.

- November 30, 2007, Amendment No. 2 to Contract No. 14-06-W-245, CAWCD, to conform the contract to the Arizona Water Settlements Act.

- June 9, 2008, Amendment No. 1 to Contract No. 04-XX-30-W0432, Hopi Tribe, to assign and transfer 50 acre-feet per year of Arizona fourth-priority water to Springs del Sol Domestic Water Improvement District and to reduce the Hopi Tribe entitlement by an equivalent amount. The Hopi Tribe entitlement, as modified, is then for the diversion of up to 5,947 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water.

- June 9, 2008, Amendment No. 3 to Contract No. 04-XX-30-W0431, MCWA, to assign and transfer 50 acre-feet per year of Arizona fourth-priority water to Springs del Sol Domestic Water Improvement District and to decrease MCWA's entitlement by an equivalent amount. The MCWA entitlement under this contract, as modified, is then for the diversion of up to 4,528 acre-feet per year of Arizona fourth-priority water.

- June 9, 2008, Contract No. 08-XX-30-W0524, Springs del Sol Domestic Water Improvement District, for the diversion of up to 100 acre-feet per year of Arizona fourth-priority water, of which 50 acre-feet per year was assigned and transferred from the Hopi Tribe Contract No. 04-XX-30-W0432 and 50 acre-feet per year was assigned and transferred from the MCWA Contract No. 04-XX-30-W0431.

- June 10, 2008, Amendment No. 4 to Contract No. 04-XX-30-W0431, MCWA, to assign and transfer 50 acre-feet of Arizona fourth-priority water to La Paz County and to decrease MCWA's entitlement by an equivalent amount. The MCWA entitlement under this contract, as modified, is then for the diversion of up to 4,478 acre-feet per year of Arizona fourth-priority water.

- June 10, 2008, Amendment No. 5 to Contract No. 04-XX-30-W0431, MCWA, to assign and transfer 200 acre-feet of Arizona fourth-priority water to La Paz County and to decrease MCWA's entitlement by an equivalent amount. The MCWA entitlement under this contract, as modified, is then for the diversion of up to 4,278 acre-feet per year of Arizona fourth-priority water.

- June 10, 2008, Amendment No. 2 to Contract No. 04-XX-30-W0432, Hopi Tribe, to assign and transfer 50 acre-feet per year of Arizona fourth-priority water to La Paz County and to decrease the Hopi Tribe's entitlement by an equivalent amount. The Hopi Tribe entitlement, as modified, is then for the diversion of up to 5,897 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water.

- June 10, 2008, Amendment No. 3 to Contract No. 04-XX-30-W0432, Hopi Tribe, to assign and transfer 200 acre-feet per year of Arizona fourth-priority water to La Paz County and to decrease the Hopi Tribe's entitlement by an equivalent amount. The Hopi Tribe entitlement, as modified, is then for the diversion of up to 5,697 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water.

- June 10, 2008, Contract No. 08-XX-30-W0530, La Paz County, for the diversion of up to 100 acre-feet per year of Arizona fourth-priority water, of which 50 acre-feet per year was assigned and transferred from the

Hopi Tribe Contract No. 04-XX-30-W0432 and 50 acre-feet per year was transferred from the MCWA Contract No. 04-XX-30-W0431.

- June 10, 2008, Amendment No. 1 to Contract No. 08-XX-30-W0530, La Paz County, to increase its entitlement by 400 acre-feet to reflect additional assigned and transferred water, of which 200 acre-feet per year was from Hopi Tribe Contract No. 04-XX-30-W0432 and 200 acre-feet per year was from the MCWA Contract No. 04-XX-30-W0431. The La Paz County entitlement, as modified, is then for the diversion of up to 500 acre-feet per year of Arizona fourth-priority water.

- September 4, 2008, Amendment No. 4 to Contract No. 2-07-30-W0028, CVIDD, to assign 2,700 acre-feet of Arizona fourth-priority water to Arizona Recreational Facilities, LLC, and to decrease CVIDD's entitlement by an equivalent amount. The CVIDD entitlement, as modified, is then for the diversion of up to 9,366 per year acre-feet of Arizona fourth-priority water, up to 1,500 acre-feet per year of unused Arizona entitlement, and up to 2,000 acre-feet per year of surplus water.

- September 4, 2008, Contract No. 07-XX-30-W0517, Arizona Recreational Facilities, LLC, for the diversion of up to 2,700 acre-feet per year of Arizona fourth-priority water assigned from CVIDD.

- October 6, 2008, Amendment No. 2 to Contract No. 1-07-30-W0021, WMIDD, to increase by 7,000 acre-feet the amount of water in the WMIDD entitlement which may be put to domestic use under the July 17, 1981, contract, as amended. The WMIDD entitlement, as modified, is then for 278,000 acre-feet per year of consumptive use, of which up to 12,000 acre-feet per year may be delivered by WMIDD for domestic use.

- October 9, 2008, Amendment No. 4 to Contract No. 04-XX-30-W0432, Hopi Tribe, to assign and transfer 1,419 acre-feet of Arizona fourth-priority water to the Arizona Game and Fish Commission and to reduce the Hopi Tribe's entitlement by an equivalent amount. The Hopi Tribe entitlement, as modified, is then for the diversion of up to 4,278 acre-feet per year of Arizona fourth-priority water, up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water.

- October 9, 2008, Amendment No. 1 to Contract No. 07-XX-30-W0509, Arizona Game and Fish Commission, to increase the Commission's entitlement by 1,419 acre-feet of Arizona fourth-priority water to reflect water assigned and transferred from the Hopi Tribe. The Commission entitlement, as modified, is then for up to 2,838 acre-feet per year of fourth-priority water (of which 119 acre-feet is for Federal lands) and up to 750 acre-feet per year of unused Arizona entitlement, and up to 1,000 acre-feet per year of surplus water.

Secretarial Reservations in Arizona

During the period from 1979 through 2008, the United States executed several Secretarial reservations of Colorado River water within the State of Arizona, including:

- September 29, 1981, reservation by the Secretary of the consumptive use of up to 1,280 acre-feet per year of Arizona fourth-priority water for use on federally owned lands in Arizona administered by the Bureau of Land Management (BLM). The water is for outdoor recreational purposes, including culinary, sanitary, and related uses.

- November 24, 1982, reservation by the Secretary of the lesser of the diversion of up to 34,500 acre-feet or the consumptive use of up to 16,793 acre-feet per year of Arizona second-priority water. The water is for the Cibola National Wildlife Refuge.

- April 27, 1987, reservation by the Secretary of the consumptive use of up to 1,930 acre-feet per year of Arizona fourth-priority water for use on federally owned lands in Arizona administered by BLM. The water is for culinary, sanitary, and related nonagricultural domestic uses.

- June 13, 2000, United States Department of the Interior BLM, interagency agreement for the consumptive use of up to 4,010 acre-feet per year of Arizona fourth-priority water pursuant to Secretarial Reservations dated August 30, 1973 (800 acre-feet per year), September 29, 1981 (1,280 acre-feet per year), and April 27, 1987 (1,930 acre-feet per year).

- November 29, 2000, reservation by the Secretary of the diversion of up to 100 acre-feet per year of water for use by Reclamation at Davis Dam and its facilities.

State of California Post-1978 Annual Water Entitlements

The priority system used for the delivery of Colorado River water within the State of California is set forth in the Seven-Party Agreement and incorporated into Federal regulations and into the Secretary's water delivery contracts, as discussed earlier in this chapter. The California priority system is illustrated earlier in this chapter in Table 6-2.

Colorado River Water Delivery Contract Actions in California

During the period from 1979 through 2008, the United States entered into several contracts with entities within the State of California with regard to Colorado River water deliveries, including:

- July 5, 1985, Contract No. 5-07-30-W0091, City of Needles, for the delivery of up to 10,000 acre-feet per year of surplus Colorado River flows.

- May 8, 1986, Contract No. 6-07-30-W0139, Margaret T. Sherman, PPR contract for the diversion of up to 23.9305 acre-feet of water per year pursuant to PPR No. 38.

- May 14, 1986, Contract No. 6-07-30-W0138, James R. Bly, PPR contract for the diversion of up to 3.1217 acre-feet of water per year pursuant to PPR No. 38.

- September 19, 1986, Contract No. 6-07-30-W0140, Edward W. and Deborah F. Glynn, PPR contract for the diversion of up to 0.8404 acre-feet of water per year pursuant to PPR No. 38.

- September 19, 1986, Contract No. 6-07-30-W0136, William H. and Hazel I. Lindeman, PPR contract for the diversion of up to 0.2586 acre-feet of water per year pursuant to PPR No. 38.

- September 19, 1986, Contract No. 6-07-30-W0137, Wilbur G. and Carroll D. Schroeder, PPR contract for the diversion of up to 12.0068 acre-feet of water per year pursuant to PPR No. 38.

- September 29, 1986, Contract No. 6-07-30-W0143, Kenneth C. and Joan C. Wetmore, PPR contract for the diversion of up to 5.3938 acre-feet of water per year pursuant to PPR No. 38.

- October 16, 1986, Contract No. 6-07-30-W0145, Mark M. and Judith K. Wetmore, PPR contract for the diversion of up to 9.2544 acre-feet of water per year pursuant to PPR No. 38.

- February 20, 1987, Contract No. 7-07-30-W0149, Jack D. Brown, PPR contract for the diversion of up to 2.3459 acre-feet of water per year pursuant to PPR No. 38.

- February 23, 1987, Contract No. 7-07-30-W0153, Jerry O. and Delores P. Williams, PPR contract for the diversion of up to 1.1360 acre-feet of water per year pursuant to PPR No. 38.

- March 6, 1987, Contract No. 7-07-30-W0150, CVWD, for the delivery of up to 100,000 acre-feet per year of surplus Colorado River flows.

- June 26, 1987, Contract No. 7-07-30-W0158, Hallise L. Dickman, Donald E. Dickman, Myrville D. Early, Guy Grannis, Vera M. Grannis, Loren D. Grannis, and Charlotte L. Grannis, PPR contract for the diversion of up to 180 acre-feet of water per year pursuant to PPR No. 32.

- September 4, 1987, Contract No. 7-07-30-W0172, Michael O. and Linda Andrews, PPR contract for the diversion of up to 0.9236 acre-feet of water per year pursuant to PPR No. 38.

- September 9, 1987, Contract No. 7-07-30-W0171, MWD, for the delivery of up to 180,000 acre-feet per year of surplus Colorado River flows.

- September 17, 1987, Contract No. 7-07-30-W0176, Jerome D. and Martha A. Carney, PPR contract for the diversion of up to 0.4525 acre-feet of water per year pursuant to PPR No. 38.

- March 30, 1988, Contract No. 8-07-30-W0185, Dorothy L. Andrade, PPR contract for the diversion of up to 1.8472 acre-feet of water per year pursuant to PPR No. 38.

- April 13, 1988, Contract No. 8-07-30-W0187, Picacho Development Corporation and California Department of Parks and Recreation, PPR contract for the diversion of up to 120 acre-feet of water per year pursuant to PPR No. 31.

- October 15, 1991, Contract No. 4-07-30-W0053, Yuma Associates Ltd., and Winterhaven Water District, PPR contract for the diversion of up to 262.8 acre-feet of water per year pursuant to PPR No. 29.

- July 5, 1994, Assignment No. 1 of Contract No. 6-07-30-W0139, Margaret T. Sherman assignment to Sunmor Properties, Inc., of contract dated May 8, 1986, for the diversion of up to 23.9305 acre-feet of water per year pursuant to PPR No. 38.

- July 22, 1996, Contract No. 6-07-30-W0342, William F. and Dorothy S. West, PPR contract for the diversion of up to 0.8774 acre-feet of water per year pursuant to PPR No. 38.

- August 26, 1999, Interagency Agreement No. 6-07-30-W0351, Department of the Navy, contract for the diversion of up to 25 acre-feet per year of surplus water and/or unused apportionment water.

- February 25, 2000, Assignment No. 1 of Contract No. 7-07-30-W0158, Hallise L. Dickman, Donald E. Dickman, Myrville D. Early, Guy Grannis, Vera M. Grannis, Loren D. Grannis, and Charlotte L. Grannis assignment to Sonny Gowan of the June 26, 1987, contract for the diversion of up to 180 acre-feet of water per year pursuant to PPR No. 32.

- October 10, 2003, IID, CVWD, MWD, and SDCWA, Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement, capping certain entitlements and effecting Colorado River water transfers within California for a period of time. Discussed earlier in this chapter.

- October 10, 2003, MWD, CVWD, IID, SDCWA, the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians, the San Luis Rey Indian Water Authority, the City of Escondido, and Vista Irrigation District, Allocation Agreement, allocating water conserved from the lining of portions of the All-American Canal and the Coachella Canal. Discussed earlier in this chapter.

- October 27, 2004, Assignment No. 1 of Contract No. 6-07-30-W0342, William F. and Dorothy S. West assignment to Ronald E. and Shannon L. Williamson of contract dated July 22, 1996. Contract is for the diversion of up to 0.8774 acre-feet of water per year pursuant to PPR No. 38.

- February 16, 2005, Assignment No. 2 of Contract No. 6-07-30-W0342, Ronald E. and Shannon L. Williamson assignment to Kendell M. Perrett, of contract dated July 22, 1996, previously assigned to the Williamsons on October 27, 2004. Contract is for the diversion of up to 0.8774 acre-feet of water per year pursuant to PPR No. 38.

- April 3, 2006, Contract No. 05-XX-30-W0445, City of Needles, PPR contract to recognize the City of Needles' right to utilize PPR No. 43 for the diversion of up to 1,500 acre-feet of water per year or the consumptive use of up to 950 acre-feet per year, whichever is less, pursuant to PPR No. 43.

- December 1, 2006, Contract No. 06-XX-30-W0454, Rudy J. Leon and Helen V. Thomas, PPR contract for the diversion of up to 1.7086 acre-feet of water per year pursuant to PPR No. 38.

- March 16, 2007, Amendment No. 1 to Contract No. 05-XX-30-W0445, City of Needles, to reflect the assignment of PPR No. 44 from Atchison, Topeka and Santa Fe Railroad Company to the City of Needles, which increased the City of Needles' entitlement by a diversion quantity of up to 1,260 acre-feet of water per year or the consumptive use of up to 273 acre-feet of water per year, whichever is less. The contract as amended then provided for a diversion entitlement of up to 2,760 acre-feet of water per year or a consumptive use entitlement of up to 1,223 acre-feet of water per year, whichever is less.

- December 13, 2007, Contract No. 07-XX-30-W0518, IID, Delivery Agreement, for Intentionally Created Surplus under the 2007 Interim Guidelines.

- December 13, 2007, Contract No. 07-XX-30-W0519, MWD, Delivery Agreement, for Intentionally Created Surplus under the 2007 Interim Guidelines.

- May 28, 2008, Assignment No. 1 of Contract No. 6-07-30-W0138, Charles E. Bly (successor-in-interest to James R. Bly) assignment to Ronnie Herndon and Linda Herndon for up to 0.4527 acre-feet of water per year pursuant to PPR No. 38 and assignment to Gordon Family Trust and Danduran Family Revocable Living Trust for up to 2.669 acre-feet of water per year, with each assignment from the May 14, 1986, contract contingent upon the assignees entering into PPR contracts within 1 year of the effective date of the assignment.

- September 15, 2008, Assignment No. 1 of Contract 6-07-30-W0136, Hazel I. Lindeman (successor-in-interest to William H. Lindeman) assignment to Jerry D. Williams, Deloris P. Williams, Jerry O. Williams, assignment of September 19, 1986 contract for diversion of up to .2587 acre-feet of water per year pursuant to PPR No. 38.

- October 7, 2008, Contract No. 08-XX-30-W0527, Gordon Family Trust, Danduran Trust B, PPR contract for the diversion of up to .2586 acre-feet of water per year pursuant to PPR No. 38.

Secretarial Reservations in California

During the period from 1979 through 2008, the United States executed one Secretarial reservation of Colorado River water within the State of California:

- January 20, 2000, Agreement No. 8-07-30-W0374, BLM, interagency agreement for up to 1,000 acre-feet per year of surplus water pursuant to Secretarial Reservation dated August 30, 1973.

State of Nevada Post-1978 Annual Water Entitlements

The priority system used for the delivery of Colorado River water within the State of Nevada as of December 31, 2008, is illustrated in Table 6-4.

Table 6-4. Nevada Priority System

Priority	Rights to be Satisfied[1]	Basis of Entitlement
First	Present Perfected Rights: Fort Mojave Indian Reservation (12,534 afy[2]) Lake Mead National Recreation Area (Diversion = 500 afy or CU = 300 afy)	 PPR[3] No. 81 AZ v. CA PPR No. 82 AZ v. CA
Second	Perfected Rights: Lake Mead National Recreation Area (in amount as required - 1,500 afy estimated)	Perfected Right – AZ v. CA
Third	City of Boulder City, Nevada (amount as authorized by decree, statute, and contract)	Perfected Right – AZ v. CA Contract No. 14-06-300-978
Fourth (co-equal)	Basic Water Company (formerly Basic Management, Inc) (8,608 afy) City of Henderson (15,878 afy) SNWA[4] (14,550 afy)	Contract No. 14-06-300-2083 Contract No. 0-07-30-W0246 Contract No. 2-07-30-W0266
Fifth	Lakeview Company (reduced to 0 afy) Pacific Coast Building Products (928 afy)	Contract No.14-06-300-1523 Contract No. 5-07-30-W0089
Sixth	Las Vegas Valley Water District (15,407 afy)	Contract No. 14-06-300-2130
Seventh	Reclamation (300 afy) Nevada Department of Wildlife (formerly Nevada Department of Fish and Game) (CU 25 afy) SNWA (4,000 afy) SNWA (10 afy)	Secretarial Reservation Contract No. 14-06-300-2405 Contract No. 7-07-30-W0004 Contract No. 9-07-30-W0011
Eighth	SNWA – Robert B. Griffith Project (299,000 afy, includes the 4,000 afy in the Seventh Priority, plus system loss 9,000 afy) Big Bend Water District (10,000 afy) SNWA (balance of State apportionment, unused and surplus) Any contract for a well drawing Colorado River water executed under the conditions provided for in Contract No. 2-07-30-W0266, Article 22(a)	Contract No. 7-07-30-W0004 Contract No. 2-07-30-W0269 Contract No. 2-07-30-W0266 Contract No. 2-07-30-W0266
Ninth	Any contracts for the delivery of Colorado River water dated after the March 2, 1992, SNWA contract	

[1]Unless otherwise stated, all quantities are stated in terms of diversion. Consumptive use is abbreviated CU.
[2]Acre-feet per year
[3]Present Perfected Right
[4]Southern Nevada Water Authority

Colorado River Water Delivery Contract Actions in Nevada

The United States is a party to the following contracts relating to Colorado River entitlements within the State of Nevada. Depending on the nature and date of the contract, either CRCN or SNWA, or both, are also parties. For contracts entered into prior to December 29, 1995, the State of Nevada participated in an approving role. During the period from 1979 through 2008, the United States entered into several contracts with entities within the State of Nevada with regard to Colorado River water deliveries, including:

- November 12, 1981, Contract No. 1-07-30-W0022, State of Nevada, amendment to the March 30, 1942, contract to provide for the delivery of 4 percent of surplus water. Discussed earlier in this chapter.

- November 8, 1983, Contract No. 4-07-30-W0041, State of Nevada, to, among other things, provide that the State of Nevada may subcontract with other entities for the delivery of up to 10,000 acre-feet of water per year. Discussed earlier in this chapter. The State then subcontracted with Big Bend Water District on November 9, 1983, for the delivery of up to 10,000 acre-feet of water per year.

- June 19, 1985, Pacific Coast Building Products, Inc., Contract No. 5-07-30-W0089, for the delivery of up to 928 acre-feet of water per year, and to supersede and replace Contract No. 14-06-300-1518, dated April 9, 1965.

- May 22, 1990, Amendment No. 1 to Contract No. 14-06-300-2083, Basic Management, Inc. (BMI), Chemstar Corporation, Titanium Metals Corporation of America, Kerr-McGee Chemical Corporation, Pioneer Chlor Alkali Company, Inc., among other things, to effect the assignment and transfer of a portion of the BMI contract water delivery entitlement (15,878 acre-feet) to the City of Henderson and reduce the remaining BMI entitlement to up to 23,158 acre-feet of water per year.

- May 22, 1990, Contract No. 0-07-30-W0246, City of Henderson, contract for the delivery of up to 15,878 acre-feet of water per year, transferred from BMI et al.

- March 2, 1992, Contract No. 2-07-30-W0269, Big Bend Water District, for the delivery of up to 10,000 acre-feet per year of Colorado River water for the district and to create a direct relationship among the United States, the State of Nevada, and Big Bend Water District with respect to delivery of this water, replacing a November 9, 1983, contract between Big Bend Water District and the State of Nevada for the delivery of up to 10,000 acre-feet per year of Colorado River water.

- March 2, 1992, Amendment No. 1 to Contract No. 4-07-30-W0041, State of Nevada, amendatory, supplementary, and restating contract that, among other things: (1) amends, supplements, and restates in its entirety the March 30, 1942, contract; and (2) supersedes the supplemental contract to the March 30, 1942, contract, dated January 3, 1944, the amendatory contract dated November 12, 1981, and the amendatory and supplementary contract dated November 8, 1983. Discussed earlier in this chapter.

- March 2, 1992, Amendment No. 1 to Contract No. 7-07-30-W0004, State of Nevada, for the diversion of up to 299,000 acre-feet per year of

Colorado River water through the Robert B. Griffith Water Project plus system losses not to exceed 9,000 acre-feet per year. Discussed earlier in this chapter.

- March 2, 1992, Contract No. 2-07-30-W0266, SNWA, for the remainder of Nevada's apportionment and surplus entitlement for use in Nevada. Discussed earlier in this chapter.

- March 2, 1992, Amendment No. 1 to Contract No. 14-06-300-2130, Las Vegas Valley Water District, to provide additional delivery points for the existing entitlement for the delivery of up to 15,407 acre-feet of water per year, and to supersede and replace the September 22, 1969 contract.

- March 2, 1992, Supplement No. 2 to Contract No. 14-06-300-978, Boulder City, to provide additional points of diversion for the city's existing entitlement for the delivery of up to 5,876 acre-feet of water per year.

- August 19, 1993, Amendment No. 1 to Contract No. 2-07-30-W0269, Big Bend Water District, for the delivery of up to 10,000 acre-feet of water per year, and to supersede and replace the March 2, 1992, contract.

- August 19, 1993, Amendment No. 1 to Contract No. 0-07-30-W0246, City of Henderson, to provide for additional delivery points for the city's existing entitlement for the delivery of up to 15,878 acre-feet of water per year, and to supersede and replace the May 22, 1990, contract.

- August 19, 1993, Supplement No. 3 to Contract No. 14-06-300-978, Boulder City, to provide additional points of diversion for the city's existing entitlement for the delivery of up to 5,876 acre-feet of water per year.

- November 17, 1994, Amendment No. 2 to Contract No. 14-06-300-2083, Basic Water Company (formerly BMI), Chemstar Lime Company, Titanium Metals Corporation of America, Kerr-McGee Chemical Corporation, and Pioneer Chlor Alkali Company, Inc., among other things, to effect the assignment and transfer of 14,550 acre-feet per year of their entitlement to SNWA and to reduce the contract entitlement by an equivalent amount. The Basic Water Company et al. entitlement, as modified, is then for the delivery of up to up to 8,608 acre-feet of water per year.

- November 17, 1994, Amendment No. 1 to Contract No. 2-07-30-W0266, SNWA, to preserve the priority date of the 14,550 acre-feet of water per year assigned from BMI et al. to SNWA, and to supersede and replace the March 2, 1992, contract.

- December 29, 1995, Assignment No. 1 of Contract No. 7-07-30-W0004, SNWA, approval by the United States of the assignment of rights and duties under the contract from the State of Nevada and the Colorado River Commission of Nevada to SNWA.

- July 3, 2001, Amendment No. 2 to Contract No. 7-07-30-W0004, SNWA, to provide for a new point of diversion, to restate certain provisions, and to clarify which provisions of the contract no longer apply after title of the Robert B. Griffith Water Project is transferred to SNWA.

- January 23, 2007, Assignment No. 1 of Contract No. 9-07-30-W0011, SNWA, dated November 8, 1978, from the Boy Scouts of America to SNWA for the delivery of up to 10 acre-feet of water per year.

- December 13, 2007, Contract No. 07-XX-30-W0520, SNWA, Delivery Agreement, for Intentionally Created Surplus and Developed Shortage Supply under the 2007 Interim Guidelines.

Secretarial Reservations in Nevada

During the period from 1979 through 2008, the United States executed a Secretarial reservation of Colorado River water within the State of Nevada:

- November 9, 1998, Bureau of Reclamation, Secretarial Reservation for the diversion of up to 300 acre-feet of water per year to be used in Nevada at Federal facilities or on Federal lands adjacent to the Colorado River. The primary use of water is at Hoover Dam and its visitor facility.

Chapter 6: List of References

Treaties, Interstate Compacts, and Federal Statutes

Boulder Canyon Project Act, Pub. L. No. 70-642, 45 Stat. 1057 (1928). On DVD in *Updating the Hoover Dam Documents 1978* at I-13.

Act of July 30, 1947, Pub. L. No. 80-272, 61 Stat. 628 (1947) (Gila Project Reauthorization Act). On DVD in *Updating the Hoover Dam Documents 1978* at II-41.

Act of October 19, 1984, Pub. L. No. 98-530, 98 Stat. 2698 (1984).

Act of November 17, 1988, Pub. L. No. 100-675, 102 Stat. 4000 (1988) (Appendix 18), later amended and supplemented by:

> Act of October 27, 2000, Pub. L. No. 106-377, Appendix B, Title II, Section 211, 114 Stat. 1441A-70 (2000) (Packard Amendment). Appendix 19.

Federal Court Decisions

Arizona v. *California*:

> 373 U.S. 546 (1963) (Opinion). DVD Supplement 2.
>
> 376 U.S. 340 (1964) (1964 Decree). Appendix 4 and DVD Supplement 3.
>
> 547 U.S. 150 (2006) (Consolidated Decree). Appendix 5 and DVD Supplement 12.

Federal Regulations

General Regulations, Contracts for the Storage of Water in Boulder Canyon Reservoir, Boulder Canyon Project, and the Delivery Thereof, September 28, 1931 (incorporating priorities of Seven-Party Agreement). Appendix 16.

43 CFR Part 414, Offstream Storage of Colorado River Water and Development and Release of Intentionally Created Unused Apportionment in the Lower Division States. Appendix 27.

43 CFR Part 417, Procedural Methods for Implementing Colorado River Water Conservation Measures With Lower Basin Contractors and Others. Appendix 28.

Federal Register Notices

66 Fed. Reg. 7772 (January 25, 2001), Colorado River Interim Surplus Guidelines. Notice of Availability of Record of Decision for the adoption of Colorado River Interim Surplus Guidelines. DVD Supplement 94.

69 Fed. Reg. 12202 (March 15, 2004), Colorado River Water Delivery Agreement – Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions, Colorado River, Arizona, California, and Nevada. Notice of Availability of a Record of Decision for the Colorado River Water Delivery Agreement – Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions Environmental Impact Statement. DVD Supplement 69.

73 Fed. Reg. 40916 (July 16, 2008), Regulating the Use of Lower Colorado River Water Without an Entitlement. Notice of proposed rulemaking.

Records of Decision (RODs)

Secretary of the Interior, October 10, 2003, *Record of Decision, Colorado River Water Delivery Agreement, Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions, Final Environmental Impact Statement*. DVD Supplement 67.

Contracts and Agreements

State of Arizona contracts and agreements. Selectively included, as specified below.

State of California contracts and agreements. Selectively included, as specified below.

State of Nevada contracts and agreements. Selectively included, as specified below.

Agreement Requesting the Division of Water Resources of the State of California to Apportion California's Share of the Waters of the Colorado River Among the Various Applicants and Water Users Therefrom in the State, Consenting to Such Apportionments, and Requesting Similar Apportionments by the Secretary of the Interior of the United States, among Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District [now Coachella Valley Water District], The Metropolitan Water District of Southern California, City of Los Angeles, City of San Diego, and County of San Diego, August 18, 1931 (Seven-Party Agreement), representative original executed by The Metropolitan Water District of Southern California. Appendix 15.

Seven-Party Agreement, executed by Palo Verde Irrigation District w/ reservation of right, August 18, 1931. DVD Supplement 54.

Contract for Delivery of Water, between the United States and the State of Nevada and its Colorado River Commission, March 30, 1942. DVD Supplement 82.

Supplemental Contract for Delivery of Water, between the United States and the State of Nevada and its Colorado River Commission, January 3, 1944. DVD Supplement 83.

Contract for Delivery of Water, between the United States and the State of Arizona, acting through its Colorado River Commission, February, 1944. Appendix 12.

Contract No. 14-06-W-245, Master Repayment Contract between the United States and the Central Arizona Water Conservation District, December 15, 1972 (DVD Supplement 40), later amended and supplemented:

> Amendment No.1, dated December 1, 1988. DVD Supplement 41.
>
> Supplement No. 1, dated August 14, 2007. DVD Supplement 42.
>
> Amendment No. 2, dated November 30, 2007. DVD Supplement 43.

Amendatory Contract With the State of Nevada for Delivery of Colorado River Water, between the United States of America and the State of Nevada acting through the Colorado River Commission of Nevada, November 12, 1981. DVD Supplement 84.

Amendatory and Supplementary Contract With the State of Nevada for Delivery of Colorado River Water, between the United States of America and the State of Nevada and the Colorado River Commission of Nevada, November 8, 1983. DVD Supplement 85.

Amendatory, Supplementary, and Restating Contract With the State of Nevada for the Delivery of Colorado River Water, among the United States of America and the State of Nevada and its Colorado River Commission, March 2, 1992. DVD Supplement 86.

Amendatory, Supplementary, and Restating Contract Between the United States and the State of Nevada for the Delivery of Water and Repayment of Project Works, between the United States of America and the State of Nevada and its Colorado River Commission, March 2, 1992. DVD Supplement 87.

Contract with the Southern Nevada Water Authority, Nevada, for the Delivery of Colorado River Water, among the United States of America, the State of Nevada and its Colorado River Commission, and the Southern Nevada Water Authority, March 2, 1992. DVD Supplement 88.

Amended and Restated Contract With the Southern Nevada Water Authority, Nevada, for the Delivery of Colorado River Water, among the United States of

America, the State of Nevada and its Colorado River Commission, and the Southern Nevada Water Authority, November 17, 1994. DVD Supplement 89.

Assignment Agreement for Amendatory, Supplementary and Restating Contract Between the United States and the State of Nevada for the Delivery of Water and Repayment of Project Works, Contract No. 7-07-30-W0004, Amendment No. 1, dated March 2, 1992, between the State of Nevada and its Colorado River Commission, and the Southern Nevada Water Authority, December 29, 1995. DVD Supplement 90.

Key Terms for Quantification Settlement Among the State of California, IID, CVWD, and MWD, October 15, 1999. DVD Supplement 65.

Storage and Interstate Release Agreement, Contract No. 02-XX-30-W0406, among the United States of America, the Arizona Water Banking Authority, Southern Nevada Water Authority, and the Colorado River Commission of Nevada, December 18, 2002. Appendix 25.

Agreement for the Conveyance of Water Among the San Diego County Water Authority, the San Luis Rey Settlement Parties, and the United States, October 10, 2003. DVD Supplement 72.

Agreement Relating to Supplemental Water Among The Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States, October 10, 2003. DVD Supplement 71.

Allocation Agreement Among the United States of America, The Metropolitan Water District of Southern California, Coachella Valley Water District, Imperial Irrigation District, San Diego County Water Authority, and the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians, the San Luis Rey River Indian Water Authority, the City of Escondido, and Vista Irrigation District, October 10, 2003. DVD Supplement 66.

Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement, among the United States, Imperial Irrigation District, Coachella Valley Water District, The Metropolitan Water District of Southern California, and the San Diego County Water Authority, October 10, 2003. Appendix 20.

Conservation Agreement, among the Bureau of Reclamation, Imperial Irrigation District, Coachella Valley Water District, and the San Diego County Water Authority, October 10, 2003. DVD Supplement 68.

Storage and Interstate Release Agreement, Contract No. 04-XX-30-W0430, among the United States, The Metropolitan Water District of Southern California, the Southern Nevada Water Authority, and the Colorado River Commission of Nevada, October 27, 2004. Appendix 26.

Settlement Agreement in *Arizona* v. *California* by and among the Quechan Indian Tribe of the Fort Yuma Indian Reservation, the United States of America, The Metropolitan Water District of Southern California, Coachella Valley Water District, and the State of California, February 14, 2005; Exhibit A to The Special Master McGarr's Approval of Final Settlements and Recommendations to the Court, June 14, 2005, *Arizona* v. *California*. DVD Supplement 11.

Letter Agreement for Temporary Re-regulation of Excess Colorado River Flows, June 13, 2006, Bureau of Reclamation and Imperial Irrigation District. Appendix 22.

Letter Agreement for Temporary Re-regulation of Excess Colorado River Flows, June 14, 2006, Bureau of Reclamation and The Metropolitan Water District of Southern California. Appendix 23.

Letters

Reclamation to Imperial Irrigation District and The Metropolitan Water District of Southern California, re: Agreement for the Implementation of a Water Conservation Program and Use of Conserved Water, January 17, 1989. DVD Supplement 63.

Reclamation to Colorado River Board of California, Bard Water District, Coachella Valley Water District, Imperial Irrigation District, The Metropolitan Water District of Southern California, Palo Verde Irrigation District, the Quechan Tribe of Indians, and the Bureau of Indian Affairs, re: the California agricultural entitlements to Colorado River water, December 10, 1992. DVD Supplement 64.

Yuma Irrigation District (YID) to Reclamation, documenting request by YID and North Gila Valley Irrigation District on May 22, 1997, for separation of joint water entitlement, December 3, 1997.

Other

Bureau of Reclamation, Map No. 23000, Colorado River Basin, 1928. Appendix 2.

The Hoover Dam Power and Water Contracts and Related Data (1933), Part I(8). On DVD.

The Hoover Dam Documents 1948, Chapters X, XI and Appendices 1018, 1106, and 1211. On DVD.

Updating the Hoover Dam Documents 1978, Chapters I, II, and X. On DVD.

Colorado River Board of California, draft Colorado River Water Use Plan, dated May 11, 2000.

Bureau of Reclamation, Final Administrative Determination of Appropriate and Equitable Shares of the Yuma Mesa Division's Colorado River Water Entitlement for the North Gila Valley Unit, the South Gila Valley Unit, and the Mesa Unit of the Gila Project in Arizona, December 27, 2001. Appendix 13.

Inadvertent Overrun and Payback Policy, October 10, 2003. Appendix 29.