



THE SECRETARY OF THE INTERIOR
WASHINGTON

DEC 27 2002

MEMORANDUM

To: Bennett W. Raley, Assistant Secretary

John W. Keys, Commissioner
Bureau of Reclamation

Robert W. Johnson, Regional Director
Bureau of Reclamation

From: Secretary

Subject: Exercise of Authority Reserved to the Secretary - Delegation of Authority

By adoption of this memorandum, I am exercising my reserved authority to rescind and revise previously-issued delegations of authority for the Department of the Interior's determinations regarding proposed schedules of diversions and beneficial use of Colorado River water (requests) for calendar year (CY) 2003 from water delivery contractors (contractors) in the Lower Basin States of Arizona, California, and Nevada. These pending CY 2003 requests are made pursuant to the Boulder Canyon Project Act, or to provisions of other Reclamation Laws, by contractors who have valid contracts for the delivery of Colorado River water. This memorandum describes the appropriate Departmental official and considerations regarding the pending CY 2003 requests, which are processed pursuant to applicable provisions found at 43 C.F.R. Pt. 417.

This action is authorized under 43 C.F.R. § 4.5(a) which reserves to the Secretary the authority to take jurisdiction at any stage of any matter before any employee of the Department of the Interior. This authority includes the authority to render a final decision in a matter pending before any employee or employees of the Department. Section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1262, 5 U.S.C. App.) authorizes the Secretary of the Interior to authorize the performance of Secretarial functions by any other officer or employee of the Department of the Interior.

Pursuant to the authorities cited above, I hereby take jurisdiction of the pending requests for CY 2003, currently before the Regional Director, Bureau of Reclamation, Boulder City, Nev. (herein termed "Regional Director"), and assign them to Assistant Secretary for Water and Science, Bennett W. Raley. This delegation of authority may not be redelegated to any other Departmental official. The pending CY 2003 requests are from the following entities within the Lower Basin States of Arizona, California and Nevada:

California:

Bard Water District
 Coachella Valley Water District
 Imperial Irrigation District
 The Metropolitan Water District of Southern California
 City of Needles
 Palo Verde Irrigation District

Nevada:

Colorado River Commission of Nevada

Arizona:

Central Arizona Water Conservation District
 Cibola Valley Irrigation and Drainage District Conservation
 North Gila Valley Irrigation District
 Mohave Valley Irrigation and Drainage District
 Unit B Irrigation and Drainage District
 Wellton-Mohawk Irrigation and Drainage District
 Yuma County Water Users' Association
 Yuma Irrigation District
 Yuma Mesa Irrigation and Drainage District
 Gila Monster Farms

I ask that the Assistant Secretary consider, among other factors, the following issues when exercising the authority contained in this Delegation of Authority:

- Your responses to the pending CY 2003 water requests should, if possible, be delivered so as to be received by each entity prior to January 1, 2003.
- Your responses to the pending CY 2003 water requests should indicate that you are exercising this authority on my behalf pursuant to this Delegation of Authority and that your determination will represent the Department's final 43 C.F.R. Part 417 determination of approved Colorado River water orders for CY 2003.
- Your responses should indicate that your decision on my behalf and pursuant to this specific Secretarial Delegation of Authority, is effective immediately and is not subject to appeal within the Department of the Interior. Your response should also provide a 30-day period after receipt by the water contractors before any water deliveries would be affected by your determination.
- Your responses to the pending CY 2003 water requests should reflect the applicable provisions of the 2003 Annual Operating Plan For Colorado River System Reservoirs (2003 AOP) that I signed on December 16, 2002. In particular, the responses should

reflect the fact that the available quantity of Colorado River water within the Lower Basin States will depend on whether the applicable California entities have executed the Quantification Settlement Agreement and its related documents by December 31, 2002. If such documents are executed by December 31, 2002, the "Full Domestic Surplus" will govern releases for use in the States of Arizona, Nevada and California during CY 2003, as defined in Section 2 of the Interim Surplus Guidelines. Conversely, under the applicable determinations made in the 2003 AOP, in the event that the Quantification Settlement Agreement and its related documents are not executed by December 31, 2002, consistent with applicable provisions of the Interim Surplus Guidelines, the "Normal" determination will govern releases for use in the States of Arizona, Nevada and California during CY 2003 in accordance with Article II(B)(1) of the U.S. Supreme Court's 1964 Decree in Arizona v. California. In accordance with this determination, there will be no surplus water available to the Lower Basin States of Arizona, Nevada and California in CY 2003. In such an event, Colorado River water delivery contractors in Arizona will be limited to 2.8 maf of consumptive use, contractors in California will be limited to 4.4 maf of consumptive use, and those in Nevada will be limited to 300,000 af of consumptive use of Colorado River water. Thus, in such a circumstance, based on the pending CY 2003 requests received by Reclamation, demand in California and Nevada will exceed supply and the availability of water to junior users will depend on the quantity approved for senior right holders.

Your response should give particular attention to the potential that the "Normal" year determination will govern releases for use in the States of Arizona, Nevada and California during CY 2003 in accordance with Article II(B)(1) of the Decree. In addition, I ask that you implement, as the delegated Departmental official, the following underscored language contained in the 2003 AOP:

Under a Normal determination, it is anticipated that use of mainstream Colorado River water in the Lower Basin will be reduced from approximately 8.5 maf in calendar year 2002 to 7.5 maf in calendar year 2003. This reduction for calendar year 2003 may require reductions in use by users in Nevada (approximately 37,000 acre-feet less than 2003 projected use) and California (approximately 620,000 acre-feet less than 2003 projected use). Given these reductions in available supply, and the extraordinarily low inflow amounts within the Colorado River basin during 2002, the Secretary, through Reclamation, will be reviewing Lower Basin operations to assure that all deliveries and diversions of mainstream water are in strict accordance with the Decree, applicable statutes, contracts, rules, and agreements.

In this regard, all practices of Lower Basin Colorado River water users must be closely scrutinized in light of potential harm to more junior users, particularly those in California, which is subject to the largest potential reduction in use. Mere continuation of prior practice is not an acceptable approach in light of the potential significant reduction in available water supplies within the Lower Basin.

Please provide the Commissioner of Reclamation and the Regional Director with copies of all documents executed pursuant to this Delegation of Authority.

**cc: Deputy Secretary
Chief of Staff
Solicitor
Deputy Assistant Secretary - Water and Science**