



United States Department of the Interior

BUREAU OF RECLAMATION

Lower Colorado Regional Office

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IN REPLY REFER TO:

BCOO-4440

WTR-4.00

OCT 08 2004

Mr. James H. Davenport
Chief, Water Division
Colorado River Commission
of Nevada
555 E. Washington Ave, Suite 3100
Las Vegas, Nevada 89101-1048

Subject: Storage of Nevada Unused Apportionment in Arizona for
the Benefit of Nevada (Letter from Southern Nevada Water
Authority (SNWA) Dated September 7, 2004)

Dear Mr. Davenport:

This is in response to the September 7, 2004, letter from SNWA requesting that the Bureau of Reclamation make 10,000 acre feet of Nevada's 2004 unused basic apportionment available to Arizona, pursuant to Article II(B)(6) of the Decree in *Arizona v. California*. This action by Reclamation will allow the 10,000 acre-feet to be banked in Arizona during 2004 for the benefit of the Southern Nevada Water Authority pursuant to the Agreement for Interstate Water Banking between the Southern Nevada Water Authority, the Colorado River Commission of Nevada, and the Arizona Water Banking Authority.

Section 2.1 of the Storage and Interstate Release Agreement (SIRA) provides that Nevada's unused basic or surplus apportionment, apportioned to the State of Nevada under Articles II(B)(1) and II(B)(2) of the Decree and released to the State of Arizona under Article II(B)(6) of the Decree, may be stored in Arizona. Section 2.2.1 of the same agreement requires, as a condition of such storage, that the Secretary decide that such unused Nevada apportionment should be released for consumptive use within Arizona under Article II(B)(6) of the Decree.

Section 414.2 of the Offstream Storage rule, 43 CFR Part 414, provides that for purposes of interstate Colorado River water banking, "unused apportionment means Colorado River water within

a Lower Division State's basic or surplus apportionment, or both, which is not otherwise put to beneficial consumptive use during that year within that State." In other words, no extraordinary conservation need be demonstrated to comply with the interstate banking rule. Parties with water delivery contracts under Section 5 of the Boulder Canyon Project Act may create unused apportionment merely by declining to receive a portion of their contract delivery. However, under the partial domestic surplus conditions in effect during 2004, surplus water is available only for direct delivery domestic use and may not be banked.

SNWA's September 7, 2004, letter requesting the Secretary "to direct 10,000 acre-feet of [Nevada's] 30,000 to 40,000 acre-feet of excess Colorado River basic apportionment to the Arizona Water Banking Authority for storage in 2004" states a willingness to decline to receive a portion of SNWA's unused basic apportionment in 2004. Consequently, I hereby determine under Article II(B)(6) of the Decree, on behalf of the Secretary, that 10,000 acre-feet of unused Nevada basic apportionment shall be released for consumptive use in Arizona in 2004.

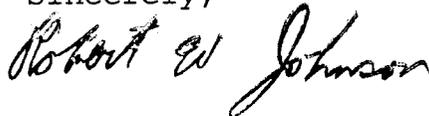
Reclamation approved the estimated diversions and consumptive use for State of Nevada water contractors for calendar year 2004 by our January 9, 2004, letter to the Colorado River Commission of Nevada. The 2004 approved consumptive use amount of 317,700 acre-feet includes 17,700 acre-feet of partial domestic surplus. In accordance with § 417.4 of 43 CFR Part 417 (Part 417), the September 7, 2004, letter from SNWA is considered a written request for the revision of Nevada's 2004 approved diversions and consumptive use because of changed conditions. This letter serves as the approval of a revised consumptive use for Nevada for 2004 in an amount not to exceed 290,000 acre-feet. SNWA will be responsible for any inadvertent overrun that results in consumptive use in excess of Nevada's 290,000 acre-foot approved amount for 2004.

Please submit a revised monthly diversion schedule that reduces the projected annual diversions for Nevada contractors for the remainder of 2004 and reflects the reduction in the approved consumptive use from 317,700 acre-feet to 290,000 acre-feet. Timely receipt of your revised schedule is important to our ability to provide an accurate daily forecast of water use for all contractors in the Lower Basin.

Reclamation acknowledges that Nevada is pursuing concurrent efforts to allow an additional 10,000 acre-feet of Nevada unused apportionment to be released for storage in California in 2004. We will address the need to approve a revised water order and request a revised monthly diversion schedule again if and when the negotiations to store 10,000 acre-feet of water in California come to fruition.

Thank you for agreeing to submit a letter releasing the 17,700 acre-feet of partial domestic surplus that was approved for Nevada in our approval letter dated January 9, 2004. If there are any questions regarding the Part 417 process or approval, please contact Ms. Ruth Thayer at 702-293-8426. If there are any questions regarding the SIRA, please contact Mr. Dale Ensminger at 702-293-8659.

Sincerely,



Robert W. Johnson
Regional Director

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