United States Department of the Interior

BUREAU OF RECLAMATION
Lower Colorado Regional Office
P.O. Box 61470
Boulder City, NV 89006-1470

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
BCOO-4440
WTR-4.00

JUN 05 2006

Mr. Charles Hosken
General Manager
Imperial Irrigation District
P.O. Box 937
Imperial, California 92251-0937

Subject: Letter Agreement for Temporary Re-regulation of Excess Colorado River Flows

Dear Mr. Hosken:

This letter serves to document the agreement between the Imperial Irrigation District (IID) and the Bureau of Reclamation regarding the temporary re-regulation of certain Colorado River flows captured at Reclamation's request and conveyed to the Salton Sea for temporary storage. We appreciate your assistance in the capture and conveyance of this water, which would otherwise flow to the Northerly International Boundary (NIB) with Mexico in excess of Treaty obligations. This Letter Agreement applies to the temporary re-regulation of Colorado River water to the extent requested by Reclamation and undertaken by IID to assist Reclamation during calendar years 2004, 2005, and 2006.

Water from Colorado River system storage spilled or released for flood control purposes, or released to fill a water order but not then diverted by an entitlement holder, might otherwise flow to the NIB in excess of Treaty obligations. Historically, when possible, this water has been subject to temporary re-regulation by Reclamation, for example when it has been captured and held in Senator Wash Reservoir. Operation of Senator Wash Reservoir has been restricted due to dam safety concerns.

The purpose of temporary re-regulation is to permit the maximum amount of water from the Colorado River system to be put to beneficial use within the United States. Temporary re-regulation is consistent with Reclamation's goal of meeting but not exceeding Treaty obligations, and is consistent with the U.S. Supreme Court Decree in Arizona v. California, the 2003 Colorado River Water Delivery Agreement (CRWDA), the Inadvertent Overrun & Payback Policy (IOPP), and the Interim Surplus Guidelines (ISG). Temporary re-regulation provides Reclamation with critical flexibility in river management. The temporary re-regulation of river flow that otherwise would flow to the NIB in excess of Treaty obligations may be effected at the request of Reclamation, but only in the event the water cannot otherwise be stored by Reclamation works or diverted by an entitlement holder in satisfaction of an existing entitlement.

In the latter part of 2004 and the early part of 2005, in response to heavy rainfall occurring in a watershed that is tributary to the lower Colorado River, Reclamation released water from Lake Havasu to protect the integrity of Parker Dam. Also, as a result of these rainstorms, 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 NIB, and in light of the current storage capacity limitation at Senator Wash Reservoir, Reclamation requested that IID capture a portion of this water and convey it to the Salton Sea. IID accommodated such requests from Reclamation in 2004 and 2005. Reclamation anticipates the possible need for additional temporary re-regulation of Colorado River water with the assistance of IID in 2006.

This Letter Agreement sets forth the understanding between Reclamation and IID relating to the temporary re-regulation of Colorado River water and the capture, conveyance, and temporary storage of this water by IID in 2004, 2005, and 2006. The parties hereto agree as follows:

1. Capture and Conveyance of Water Subject to Temporary Re-Regulation.

1.1 The quantity of Colorado River water temporarily re-regulated by Reclamation and captured, conveyed, and temporarily stored by IID at the request of Reclamation in 2004 was 15,880 acre-feet, stated as a consumptive use amount at Imperial Dam, Station 60, measured as flows at Station 1117. IID conveyed this water to the Salton Sea in 2004.

1.2 The quantity of Colorado River water temporarily re-regulated by Reclamation and captured, conveyed, and temporarily stored by IID at the request of Reclamation in 2005 was 21,476 acre-feet, stated as a consumptive use amount at Imperial Dam, Station 60, measured as flows at Station 1117. IID conveyed this water to the Salton Sea in 2005.

1.3 IID may elect to capture additional Colorado River water in 2006 and convey it to the Salton Sea after a specific request from Reclamation to assist in the temporary re-regulation of Colorado River water which might otherwise flow to the NIB in excess of Treaty obligations.

1.4 IID will compile and maintain complete and accurate records of the amount of water captured at Imperial Dam at Reclamation's request for purposes of temporary re-regulation in 2004, 2005, and 2006. These records will indicate, on a daily and monthly basis, the amount of water captured by IID at Imperial Dam, Station 60, measured as flows at Station 1117.

2. Accounting Procedures for Water Subject to Temporary Re-Regulation.

2.1 Reclamation, in its Decree accounting for 2004, 2005, and 2006, will reflect the temporary re-regulation by Reclamation of the Colorado River water subject to this Letter Agreement in a new category entitled "Water Subject to Temporary Re-regulation" and will identify the quantity of re-regulated water temporarily stored in the Salton Sea.

2.1.1 Reclamation will not reflect IID's capture, conveyance, or temporary storage of the re-regulated water as a diversion or consumptive use by IID.

2.1.2 Reclamation will not account for the re-regulated water as part of the State of California's consumptive use for that year under the Annual Operating Plan for the Colorado River System Reservoirs (AOP) or as a consumptive use under IID's Colorado River water delivery contract with the Department of the Interior.

2.1.3 Reclamation will not take the re-regulated water into account in determining water order approvals, or in determining overruns under the IOPP, or in applying the ISG. Under no circumstance will IID's capture, conveyance, or temporary storage of the re-regulated water cause IID to incur or have an overrun, or cause IID to have to repay an overrun under the IOPP.

2.2 The Colorado River water temporarily re-regulated by Reclamation through IID's assistance in 2004 will be fully restored to Lake Mead as provided herein before or during the year following the publication of the Decree Accounting Report which reflects Water Subject to Temporary Re-regulation captured in 2004. Water re-regulated in 2005 will be fully restored to Lake Mead before or during the year following the publication of the Decree Accounting Report that reflects Water Subject to Temporary Re-regulation captured in 2005. Water re-regulated in 2006 will be fully restored to Lake Mead before or during the year following the publication of the Decree Accounting Report that reflects Water Subject to Temporary Re-regulation captured in 2006.

2.2.1 In any year that Water Subject to Temporary Re-regulation is being restored to Lake Mead, and in accordance with various California agreements, IID will engage in fallowing or other means of extraordinary conservation that will leave Colorado River water in the Colorado River available for transfer to the San Diego County Water Authority (SDCWA).

2.2.2 Reclamation's Decree accounting for IID will reflect diversion and consumptive use of the water being restored to the Colorado River in the same manner that Reclamation accounts for satisfaction of the mitigation requirement in Exhibit B, column 7 of the CRWDA, when re-regulation water is not involved. Reclamation will then reflect a corresponding reduction in the outstanding volume of re-regulation water temporarily stored in the Salton Sea until exhausted.

2.2.3 IID's consumptive use of water in a year in which water is being restored to the Colorado River will be subject to the normal Decree accounting procedures applicable to consumptive use, including application of the CRWDA, the IOPP, the ISG, and the AOP.

2.2.4 The Decree accounting for each such year in which water is being restored to the Colorado River will reflect a commensurate reduction in the cumulative quantity of water temporarily stored in the Salton Sea and remaining subject to temporary re-regulation.

2.3 IID's assistance to Reclamation in the temporary re-regulation of Colorado River water is an act of extraordinary conservation that prevents water from being lost to beneficial use within the United States and ultimately results in substantial increased supplies in Lake Mead.

2.3.1 In consideration for the above benefit, Reclamation will, in the year of IID's

choosing, credit IID with an amount equal to 25 percent of the amount of re-regulated water captured as a prior satisfaction of a portion of IID's payback requirements under Exhibit C of the CRWDA.

2.3.2 IID shall not be required to conserve additional Colorado River water or to substitute non-Colorado River water in an amount equal to 25 percent of the amount of re-regulated water captured by IID to satisfy its Exhibit C payback obligation for the year in which this credit is applied.

3. Payment by the United States.

3.1 Subject to appropriations, the United States will pay IID for IID's reasonable incremental costs of capturing and conveying the re-regulated Colorado River water to the Salton Sea during calendar years 2004, 2005, and 2006. Reclamation will reimburse IID for said reasonable incremental costs pursuant to the operating agreement for Imperial Dam facilities, dated March 21, 1983, among IID, the remaining Imperial Dam Water Users, and Reclamation.

3.1.1 IID and the United States have quantified these costs to date as $28,415.07.

3.1.2 IID will compile and maintain complete and accurate records of the reasonable incremental costs IID incurred during calendar year 2004 and 2005 and those reasonable incremental costs that IID incurs during calendar year 2006 in capturing and conveying to the Salton Sea the Colorado River water subject to temporary re-regulation under the terms of this Letter Agreement.

3.1.3 Prior to United States payment to IID of the reasonable incremental costs, IID will provide an itemized statement to the United States reflecting all charges.

3.2 Subject to appropriations, the United States further agrees to pay IID an additional amount not to exceed $137,476.50 to compensate IID for actual liability costs incurred by IID in October and November of 2004 in connection with the conveyance of water subject to temporary re-regulation, as supported by an itemized statement to the United States reflecting payments to entities or individuals damaged or injured by the October or November 2004 conveyance by IID.

4. Liability.

4.1 IID hereby releases and agrees that it will indemnify and hold harmless the United States and its officers, agents, employees, and successors or assigns, from every claim for damages to persons or property, direct or indirect, and of whatever nature, arising by reason of the capture and conveyance by IID of Colorado River Water Subject to Temporary Re-regulation by Reclamation under this Letter Agreement.

4.2 The United States shall be liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, as amended.

5. Term of This Letter Agreement. This Letter Agreement becomes effective upon the date of its execution by IID and will remain in effect until all terms and conditions are satisfied.

If the above provisions meet with your approval, please indicate your concurrence by signing and dating this Letter Agreement in the space provided below and having your signature attested. Please return a signed original of this letter to this office at the above address. If you have any questions or comments concerning this matter, please contact Ms. Ruth Thayer in writing or by telephone at 702-293-8426.

Sincerely,

ROBERT W. JOHNSON

Robert W. Johnson
Regional Director

In Duplicate

I concur with the provisions of this Letter Agreement

By: _____ _____
IID General Manager Date

Attest: _____

cc: Mr. Gerald R. Zimmerman
Executive Director
Colorado River Board of California
770 Fairmont Avenue, Suite 100
Glendale, California 91203-1035

bc: Area Manager, Yuma, Arizona
Attention YAO-7000
1100, 4200, 4222, 4440, 4449-File, 4400-Chrono, Daily

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