

system challenges can be addressed without any modifications at this time. We believe that sufficient flexibility in the current Operating Criteria has been demonstrated by accommodation of a "determination of surplus" condition for 1996 thru 2000 to facilitate deliveries greater than 7.5 million acre-feet in the Lower Basin during those operating years as well as to accommodate the recently approved Colorado River Interim Surplus Criteria.

The legislative history of P.L. 90-537 (House Report No. 1312, page 3727) provides some insight into the intent of Congress regarding these Operating Criteria. This report suggests that ". . . it is the intention of the language approved by the Committee that such criteria be prepared and reviewed each year after an exchange of views. . ."

After the flood years of the mid-1980's, Reclamation and the States set up a technical team to review historical operations to see if more flexibility could be incorporated into operations planning to preclude a repeat of the high releases of 1983. This group became the "Colorado River Work Group" as we know it today. This group developed recommendations in 1986 that implemented the strategy that is currently being used to plan monthly operations during the forecast period and led to the development of an annual operations planning process where State, Federal and other interested parties reviewed and discussed the proposed upcoming year's operation. At individual upstream reservoirs, plans are developed in concert with reservoir storage conditions and anticipated runoff to reflect appropriate consideration of the uses of the reservoir for all purposes including flood control, river regulation, beneficial consumptive use, power production, water quality control, recreation, enhancement of fish and wildlife, protection of endangered species and other environmental factors. These plans are developed in a full public participation process.

After these individual reservoir plans are developed, the coordinated operation between reservoirs and between basins is established. These individual plans and their coordinated, system-wide operation are then promulgated in an "Annual Operating Plan" approved by the Secretary of the Interior prior to the next year's operations as the culmination of a several-month-long coordinated public planning process. The legislative history expectation seems very similar to the present public process that is undertaken each year in developing the Annual Operating Plan. In fact, the Annual Operating Plan process, now offers to all who wish to participate, an ample opportunity to develop and review information each year and this annually tests the viability of the Operating Criteria perhaps to a much greater extent than was envisioned by Congress in 1968.

Consistent with the statutory authority under which the Operating Criteria were promulgated, and considering the dialogue, exchange of views and utilization of the flexibility in applying the Operating Criteria to specific hydrologic conditions and the yearly needs of the Colorado River System we believe it appropriate to reach the decision that Operating Criteria do not need to be modified at this time. The Operating Criteria appropriately reflect what needs to be accomplished consistent with the statutory authorities at this time. The Operating Criteria must not be adjusted to accommodate activities that are outside the statutory authority under which they were promulgated. The continuous evaluation and adaptation of the Operating Criteria is accomplished through the Annual Operating Plan process and should be the basis on which to

apply Section 602(b) guidance “as a result of actual operating experience or unforeseen circumstances” What else is there to do or who else could be added that is not now participating in the Annual Operating Plan process? What additional public process is necessary?

The Commission Staff and Upper Basin States remain committed to the process of preparing the Annual Operating Plan and will work with Reclamation and others to meet the future challenges of operations of the Colorado River system. Therefore, the Upper Colorado River Commission strongly believes that through the Annual Operating Plan process and under the general guidance of the Operating Criteria, operational needs of the Colorado River reservoirs are being accommodated without requiring any changes to the existing 1970 Operating Criteria. In addition we see no need for public meetings to review Operating Criteria that are working satisfactorily at this time.

Sincerely,

A handwritten signature in cursive script that reads "Wayne E. Cook". The signature is written in black ink and is positioned above the typed name and title.

Wayne E. Cook
Executive Director

cc: Upper Colorado River Commissioners