

COMMENT LETTER

RESPONSES

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cont'd

is particularly disturbing to note in paragraph S.4.4 of the DEIS that the "Secretary may choose to terminate the interim criteria and revert to the current method" if California fails to meet its goals. We believe the commitment to terminate the interim criteria must be an enforceable agreement among the states and the Department of the Interior, not a purely discretionary action on the part of the Secretary.

9

As the single largest contract holder for Arizona's share of Hoover B power, we are interested in the impacts of interim criteria on the long term trends of Hoover power production. The model studies indicate, as expected, that in all scenarios increasing demands for water supply will lower reservoir levels and the resulting loss of power head will reduce generation. In analyzing the various alternatives, the DEIS compared the changes in hydropower production on a regional basis, noting that the hydropower provides only 3.6% of the region's resources. It would be more helpful if the impacts were noted on the specific group of federal hydropower contractors. This would be more consistent with the analysis of the economic impacts on pumping costs for the SNWA or the economic impact analysis on recreation facilities at Lake Mead and Lake Powell.

10

The DEIS is quite detailed. We question some of the modeling assumptions used, particularly the surplus demand schedule, but will not offer any specific comments. We believe adequate comments on modeling concerns were raised at the modeling workshop conducted by Reclamation.

11

We disagree with the analysis of the impact of shortages. On page 3.4-5, the DEIS states that shortages will impact agricultural water use and recharge initially, then M&I use later. We believe shortages will impact Indian use if current settlement discussions result in non-Indian agriculture being reallocated for Indian use. In addition, some Indian agricultural water is shorted before M&I. While there is more detail included in Tables 3.14-3 and 3.14-4, there is some confusion because both Tables have the same title. We believe Table 3.14-4 should be titled "... With GRIC ...". In any case, it doesn't appear the assigned shortages are consistent with our interpretation of current priorities or with the priority scheme developed in the GRIC settlement discussions.

12

CAWCD believes that the DEIS improperly considers the impacts in Mexico from Reclamation's actions in the United States. In general, there is a strong presumption against the extraterritorial application of U.S. laws. The courts have held that NEPA, in particular, should not be applied outside the United States, in part because of potential conflicts with foreign policy and treaty matters. That is especially true here, given the 1944 treaty with Mexico.

13

The CAWCD supports the comments offered by the Arizona Department of Water Resources and intends these comments to complement and supplement their comments.

9: Comment noted. Reclamation believes that the level of analysis for energy resources presented in the EIS appropriately identifies the potential effects of interim surplus criteria.

10: The water depletion schedules used in DEIS for the modeling of the baseline conditions and surplus alternatives were revised and updated by the Basin States for the FEIS. The individual states developed these revised schedules in coordination with Reclamation, the various Colorado River water contractors, Indian Tribes and local agencies. A summary of the updated Upper and Lower Division depletion schedules are presented in Attachments H and K of the FEIS, respectively.

11: The modeled Colorado River water deliveries under the baseline conditions and surplus alternatives assumed that all Arizona shortages would be absorbed by the Central Arizona Project. Reclamation acknowledges that under the current priority framework, there would be some sharing of Arizona shortage between the Central Arizona Project and other Priority 4 users. However, the bases or formula for the sharing of Arizona shortages is the subject of current negotiations and as such, could not be adequately modeled for the FEIS. The water supply conditions modeled for the FEIS were used to evaluate the relative differences in water deliveries to each state under baseline conditions and the surplus alternatives. The normal, surplus and shortage condition water depletion schedules modeled in the FEIS are consistent with the depletion schedules prepared by the Basin States for this purpose.

12: The applicable guidance appears to be contrary to your comment. EO 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957, 1979 WL 25866 (Pres.) requires that federal agencies "... consider the significant effects of their actions on the environment outside the U.S., its territories and possessions,..." Recent CEQ guidance for transboundary impacts, dated July 1, 1997, appears consistent with the approach in the Executive Order.

13: Comment noted.

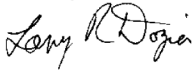
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In summary, CAWCD can support the 7-Basin States' Proposal with: 1) a stronger enforcement mechanism in the event that California does not comply with its 4.4 MAF plan; 2) enforceable commitments for California's reparation for increased water supply shortages; and 3) a commitment to develop more specific supply/demand shortage criteria similar to the 602(a) criteria used for Lake Powell in the future.

Sincerely,



for

David S. "Sid" Wilson, Jr.
General Manager

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cc: Rita Pearson, ADWR