

COMMENT LETTER

RESPONSES

Interim Surplus Guidelines

Coachella Valley
Water District3. Page 3.4-6, 3.4.3.3 State of California, *Law of the River*

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One of the difficulties in federal oversight of California's use of Colorado River water has been a priority system which allows water to cascade from one priority to another. In order for such a priority system to work, the locations where Colorado River water can be used in California must be limited to a highly detailed, specific service area. Without a specific area limitation, the priority system outlined by federal contract would not work. A description of this difficulty needs to be included between the sentence describing the *Law Of The River* and the 1964 Supreme Court Decree.

3: We note your comment and have added a third paragraph under Section 3.4.3.3 to add more details on the California priority system.

2.3.3 and 2.3.4

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The establishment of Tiers 1 through 3 for the both the Six States Surplus Alternatives and the California Surplus Alternatives are a defacto rearrangement (Attachment D page7, Attachment E page A-5) of the California priority system. This rearrangement does not take place until execution of the Quantification Settlement Agreement which is a key element of the California 4.4 plan. The CVWD agrees with the combination approach taken including both water transfers and multi-tiered surpluses .

4: Comment noted.

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More importantly, wording should be included stating that unilateral implementation of the Surplus Guidelines by the Bureau of Reclamation without the combined implementation of the Quantification Settlement Agreement and 4.4 Plan would favor one party at the expense of another party. i.e. a higher priority agricultural water contractor will be able to divert additional Colorado River water while transferring water outside of the existing priority system.

5: Comment noted. No transfers of California Colorado River entitlements may occur without the approval of the Secretary of the Interior. Mere determination of the operational criteria for surplus condition pursuant to the LROC favor no particular party in any state. Surplus waters are distributed in accordance with Article II(B)2 of the Decree unless other voluntary arrangements among the parties are in place.

4. Page 3.4-19, 3.4.4.2 State of California

6

The runs incorporating multi tiers and water transfers change the priorities among the California Colorado River water contractors (Attachment G schedules).

6: We note your comment and have revised the first paragraph under Section 3.4.4.2, to address the transition period.

Wording should be inserted that the computer model contains the assumption that guideline implementation has a "transition" period allowing for the orderly movement from the existing priority system to the interim system.

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5. Page 3.16-1, Section 3.16-2 Methodology

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The waters of the Colorado, once delivered, are the exclusive property of Mexico. The Bureau of Reclamation in extending the scope of the Environmental Impact Statement beyond the United States implies an extension of federal authority into a foreign country whose courts and laws do not recognize that authority. This document, if it is to include discussions on impacts in Mexico, must be reviewed and approved by the U. S. State Department prior to publication. If the review and approval of the State Department is not secured, Section 3.16 Transboundary Impacts must be deleted.

6. Page 4-1 Cumulative Impacts, second paragraph regarding intrastate water transfers.

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Because the California priority system is a relative system of water allocation, any project or agreement between two parties with differing priorities will have impacts on other intermediate priorities. Therefore a guiding principle in the Quantification Settlement negotiations has been that implementation of the Quantification Settlement Agreement will occur all at once. i.e. all elements combined as one package and no single element being implemented outside the Quantification Settlement Agreement. The cumulative impacts section should contain wording indicating that the Interim Surplus Guidelines are both a condition precedent of the Quantification Settlement Agreement, and an integral part of the California Colorado River Water Use Plan.

7: Nothing in the DEIS implies an extension of U.S. federal authority into Mexico, nor could it. The US Section of the International Boundary and Water Commission (USIBWC) is a cooperator in this EIS process. As such, the USIBWC had an opportunity to review and comment on the DEIS and this FEIS prior to public availability. Accordingly, we decline the request to delete Section 3.16.

8: The purpose and need of the proposed action is to provide more specific surplus criteria and increased predictability with regard to surplus determinations. Reclamation is preparing a separate NEPA document to consider the Secretarial Implementation Agreements associated with the California Colorado River Water Use Plan.

Section 4.2 has been modified and Reclamation believes that it has appropriately addressed potential cumulative effects of the proposed action. Reclamation does not believe the adoption of surplus criteria is a component of the "California Plan," but does believe that surplus criteria should neither frustrate nor hinder California's efforts to reduce its Colorado River water use.