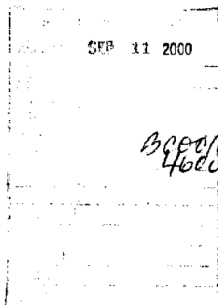


COMMENT LETTER

UPPER COLORADO
RIVER COMMISSION

355 South 400 East • Salt Lake City • Utah 84111 • 801-531-1150 • FAX 801-531-9705

September 8, 2000



BY FAX AND U. S. MAIL

Regional Director
Lower Colorado Region
U. S. Bureau of Reclamation
P. O. Box 61470
Boulder City, Nevada 89006-1470

Attention: Ms. Jayne Harkins - BCOO-4600

Dear Ms. Harkins:

On behalf of the Upper Division States, thank you for the opportunity to provide comments on the Draft Environmental Impact Statement (DEIS) and supplemental information on the "Colorado River Interim Surplus Criteria."

The Upper Colorado River Commission is an interstate administrative agency created by the Upper Colorado River Compact of 1948. The member States of the Upper Colorado River Commission are: Colorado, New Mexico, Utah and Wyoming. Since its inception, the Commission has actively participated in the development, utilization and conservation of water resources of the Colorado River Basin.

The Upper Colorado River Commission has been concerned for a long time about the Lower Colorado River Basin's demand for water in excess of its Compact apportionment. This has been especially true in California.

As early as 1990, discussions between California and the other Basin States were initiated in an attempt to encourage California to manage its demand for Colorado River water to remain within its basic Colorado River apportionment. Beginning in 1996, Lower Basin demands above 7.5 million acre-feet (maf) per year have been met because of favorable hydrologic conditions and through the use of a surplus determination as contemplated in Article III(B)(2) of *Arizona v. California*. Favorable hydrologic conditions may not, however, provide adequate water supplies to meet similar future Lower Basin demands.

California has recently completed the negotiation of a water management plan that could facilitate water conservation and transfer sufficient to allow California's needs to be met within its basic apportionment of 4.4 maf by 2016. Certain of the interim surplus criteria alternatives analyzed within your Draft Environmental Impact Statement could provide short-term certainty to domestic users in California and the other Lower Basin States while providing sufficient time for California to implement its necessary water savings and transfer activities.

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The supplemental seven Basin States information provided by *Federal Register* notice dated August 8, 2000 is a carefully crafted set of interim guidelines that represent a consensus agreement among the seven States to govern the determination of surplus conditions in the Lower Colorado River for the next 15 years. These guidelines have been specifically developed to firm up domestic supplies in the Lower Basin while providing appropriate protection for all water users in the Colorado River Basin during the interim period. Further, the proposed guidelines are predicated on and contain enforceable measures to insure that California implements the necessary measures to manage its future demand on Colorado River mainstem water to 4.4 maf/year.

These seven Basin States-proposed guidelines fit within the range of the alternatives evaluated in the present DEIS. It is our full expectation that they will be adopted by the Secretary of the Interior as the preferred alternative in the Final Environmental Impact Statement (FEIS) and Record of Decision.

For further consideration in your development of the Final Environmental Impact Statement, we provide the following comments of specific concern:

(1) The Upper Colorado River Commission, in its review of the DEIS, finds that there are a number of views expressed in the DEIS concerning the "Law of the River" with which it disagrees or does not wholly concur. However, these differences do not significantly impact the results of the DEIS and thus the Commission does not see any merit in debating them in the DEIS process. However, the Commission wants it clearly understood by all parties that it is not, in any way, changing long-standing positions on Colorado River issues as a result of the way they may be stated in the DEIS. Rather, we would strongly encourage the Bureau of Reclamation to include the usual disclaimer it uses to address the differences that exist with respect to the "Law of the River."

(2) In December 1999, the Upper Colorado River Commission approved and made available revised Upper Basin depletions for use in long-range model studies. These revised depletions were provided to Reclamation in January 2000. These revised demands were used when the seven Basin States utilized CRSSEZ in analyzing the impacts of and arriving at the seven Basin States' interim surplus guidelines discussed above. Model studies for the Draft Environmental Impact Statement utilizing Riverware did not use these revised Upper Basin States depletion estimates. We request that the revised Upper Basin depletions be incorporated in any future modeling efforts to support your Final Environmental Impact Statement (FEIS).

(3) The no action/baseline strategy, described as a 75R strategy, is not a strategy based on an accurate depiction of past actions. Surplus determinations have been made since 1996. The determination for 1996 was made retroactive, based on a 70R strategy and when demands were projected to exceed 7.5 maf. During the development of the 1997 Annual Operating Plan (April through June), hydrologic and forecast criteria substantiated a 70R strategy surplus determination. Only after completion of the "Field Draft" did water supply conditions change, jeopardizing a surplus determination justified by a 70R strategy. A conscious decision was made by Basin States representatives and Interior to stick by a surplus strategy supported by

1: The preferred alternative in this FEIS is derived from the Seven States Proposal. Reclamation did not structure the preferred alternative precisely as described in that draft proposal, but made some changes for consistency with the purpose and need of the proposed action, Reclamation policy and operational procedures.

2: Comment noted.

3: Revised depletion schedules provided by the Basin States were used in analyses for the FEIS. See response to Comment No. 14-10 for more detail.

4: The 70R strategy has been used for the baseline in this FEIS. For additional information, see response to Comment 57-11.

4 cont'd
below

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4
cont'd

a 70R strategy surplus based on conditions prevalent during the time frame of Interior/Basin States negotiations. Surplus determinations since 1997 have all been made under flood control or 70R trace conditions. To suggest that a 75R strategy represents the no action (historical process) is not historically correct.

5

(4) The Draft Environmental Impact Statement characterizes the six Basin States plan as based on 75R trace hydrology. This is categorically incorrect. The six Basin States' guidelines (December 1998) as well as the present seven Basin States interim guidelines all have as a baseline condition a return to 70R trace criteria following the interim period.

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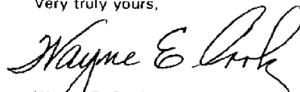
(5) Your comparisons of alternative studies are not consistent in their assumptions. The Base Case and Flood Control alternatives were evaluated not including the water conservation and transfer contemplated in the California 4.4 plan. However, when similar studies were made for the six Basin States and California plan, these conservation and transfer measures were included, rendering the comparative results somewhat in error. All final comparative alternative studies must have similar assumptions, and we recommend that the provisions of the California 4.4 plan be a part of each analysis.

7

(6) All of the present alternative studies in the Draft Environmental Statement have been made without consideration of periodic inflows into the Colorado River from the Gila River above Yuma, Arizona. These periodic flows provide a significant impact on releases from Lake Mead for deliveries to Mexico and as such influence system demands and storage in both the Lower Basin and the Upper Basin. We believe these Gila River flows need to be included, and we encourage Reclamation to do so.

The timely adoption of interim surplus criteria is of the utmost importance in being able to provide dependable domestic water supplies in the Lower Basin in the near term. We encourage you to complete the Final Environmental Impact Statement (FEIS) and Record of Decision prior to January 1, 2001.

Very truly yours,


Wayne E. Cook
Executive Director

5: The operational modeling for the Six States Alternative uses the 70R strategy after the 15-year interim period in this FEIS.

6: Please see response to Comment 37-11.

7: All studies have been made without consideration of periodic inflows into the Colorado River from the Gila River above Yuma, AZ. Gila River flows are infrequent and unpredictable. The RiverWare CRSS model is not currently set up to model Gila River flows; there was insufficient time to incorporate them into the model. The US Army Corps of Engineers has recently completed flow studies of the Gila River. Reclamation is reviewing this new data and will consider modeling the Gila River in future studies.