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To Whom It May Concern:

INTRODUCTION

The Mohave County Water Authority (MCWA) submits the following comments to the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead, Draft Environmental Impact Statement (February 2007). MCWA is comprised of members representing Bullhead City (BHC), Lake Havasu City (LHC), Mohave Water Conservation District (MWCD), Mohave Valley Irrigation and Drainage District (MVIDD), Golden Shores Water Conservation District (GSWCD), City of Kingman and Mohave County. BHC, LHC, MWCD, MVIDD and GSWCD represent the first (and probably only) municipal / industrial users in the State of Arizona to be significantly and immediately impacted by projected shortages during the interim period. Because of our unique position in the State of Arizona, we renew our previously denied request for consultation on this matter as the draft EIS makes it abundantly clear that no one with whom Reclamation consulted was adequately representing the interests of Arizona's 4th priority on river users.

THE SEVEN BASIN STATES ALTERNATIVE

MCWA recognizes Arizona worked diligently with the other Basin states to achieve agreement on the Basin States' Preliminary Proposal recommended to the Secretary of Interior on February 3, 2006 following the publication of the Draft EIS, and that Arizona has continued to work closely with the other states to refine and improve the Basin States' Preliminary Proposal and to develop one set of comments to the Draft EIS on behalf of all of the states ("Basin States Comments"). We understand the Basin States will be submitting the Basin States' Comments, together with the Basin States'

"As you drink the water, remember the spring."

- Chinese proverb -

Proposal, which will include the Basin States' Agreement, Proposed Interim Guidelines for Colorado River Operations, draft Forebearance Agreement and Arizona-Nevada Shortage Sharing Agreement (Basin States Proposal). While MCWA has some significant reservations regarding the Basin States Alternative we join in Arizona's letter submitted this date recommending the Secretary choose the Basin States alternative as the preferred alternative in the FEIS and adopt an ROD with the guidelines and criteria necessary to implement the Basin States Alternative in substantial conformance with the carefully negotiated Basin States Proposal provided such ROD adopts Arizona Department of Water Resources' Director's Shortage Sharing Workshop Recommendations, October 24, 2006 (Revised) Final attached hereto as Exhibit 1.

COMMENTS TO ADDRESS CONCERNS SPECIFIC TO MCWA

1. No Action Alternative:

This alternative would provide no guidance to the on river 4th priority users in planning for shortages. Our members could suffer 30% shortages in both M&I and agricultural supplies as early as 2011. It gives no guidance as to how and when shortages would be imposed. It also assumes (a) the existing 602(a) interpretation would stand (see Arizona's letter for further discussion) and (b) the CRBPA requires on river agricultural and municipal/industrial users to be shorted immediately when CAWCD suffers shortages. This conclusion is not compelled by either the language in our contracts nor the CRBPA. This alternative leaves too many unanswered questions both among the Basin States and within Arizona to be acceptable to MCWA.

2. Water Supply Alternative

The DEIS indicates that there would likely be no shortages in Arizona during the interim period under this alternative. In the short term this is clearly the best alternative for us, but we recognize the potential long term adverse consequences of this alternative and the likely conflicts it would cause among the Basin States. The compromises encompassed within the Basin States Proposal benefit the entire system and its long term benefits are reasons we support the Basin States Alternative versus the Water Supply Alternative.

3. Reservoir Storage Alternative

The modeling provided in the DEIS shows that this alternative would have a significant negative impact on the river communities in Mohave County. While the Reservoir Storage Alternative proposes to offset some of its impact with increased intentionally created surplus (ICS) the Arizona cities most immediately and severely impacted by this proposal, i.e., Lake Havasu City and Bullhead City, would be unlikely to benefit from an ICS program without a legal battle within Arizona.

MCWA for the above reasons, as well as the reasons set forth in Arizona's letter, strongly objects to the Reservoir Storage Alternative.

4. CBS Alternative

MCWA believes the concept of voluntary following, as well as the opportunity for participation by all parties (including Arizona's on river 4th priority users and Mexico) in the ICS program are laudable goals and request the FEIS adopt the Basin States Alternative as the preferred alternative but discuss further the steps which could be taken, within the Law of the River, to get the benefits likely to result from a voluntary following program (which would put following contracts in place NOW for future shortages) and to broaden participation in the ICS program. Representing the communities in which Arizona will take the first, and most significant, reductions in times of shortage we consider it incumbent upon the Secretary to take all reasonable steps to mitigate the impacts of shortage by supplementing the mitigation efforts we already have in place.

5. Additional Comments on the DEIS

A. ICS

Reclamation should, in the Final EIS, accurately describe ICS as a category of surplus, include a description of the forbearance necessary for the delivery of ICS to the entity that created the Surplus, and, in the record of Decision, adopt guidelines for the creation and delivery of ICS as set forth in the Proposed Interim Guidelines contained in the Basin States' Proposal. Reclamation should also take reasonable steps to provide that the benefits of ICS are available to all users particularly those immediately and significantly impacted by projected shortages, i.e., our members.

B. On River 4th Priority Agricultural Users

The draft EIS includes the following statement: "Key to the impact analysis is the assumption that the most conservative way to estimate impacts is to assume that, if a shortage occurs, farmers would react by following irrigated lands." (p.4-263) This is an adequate approach for analyzing shortage reductions expected to last for a single year. However, we disagree with the assumption that this approach captures the expected impact for multiple consecutive-year storage reductions. Since fourth priority agricultural water users in Mohave County, Arizona have no reasonably available replacement water supply, a long term shortage will likely result in the permanent loss of production for some lands.

The DEIS also fails to adequately address the impact on the economies of the impacted communities of this loss of agriculture by comparing the impact to the State and County overall (see, e.g., p.4-261 which totally ignores on river agricultural impacts in Arizona). This serves to very much dilute the direct and immediate impact on the on river 4th priority user communities.

C. On River 4th Priority Municipal and Industrial Users

- As with on river agricultural users, the DEIS fails in any manner to address the direct and immediate impact of the projected shortages and cumulative shortages on municipal users of 4th priority on river users (see, e.g., p.3-129) and, again, lumps the communities together by County which significantly dilutes the local impact.
- The DEIS depletion schedules (Appendix D) underestimate by 25-35% on river M&I water use (as compared, e.g., to Reclamation's own 2006 water use report) which again, serves to underestimate the extent and effect of shortages and makes it difficult to determine the actual shortage amounts we would be expected to suffer based on the DEIS hydrologic modeling.
- The DEIS fails to address the significant costs borne by our members to date, and the even higher costs to be borne in the future, of the mitigation efforts taken to date (primarily participation in the Arizona Water Banking Authority (AWBA) program which costs include water, delivery, storage, recovery and replacement of any water used in times of shortage). The significant economic hardship of using AWBA water in times of shortage, particularly in multiple year shortage occurrences, is totally ignored by the DEIS. The DEIS also ignores the hundreds of millions of dollars our communities have spent/are spending to convert from septic to wastewater treatment systems in order to generate effluent to offset the impacts of shortage.
- Future estimated shortage reductions to mainstream users, including Lake Havasu City and Bullhead City, run as high as 30% of entitlement over a number of consecutive years. Despite the conclusion in the DEIS that no permanent changes in land use are expected (p.4-270) it is highly unlikely that such significant cutbacks in supply, and as early as 2011, would not alter land use patterns in the affected communities.
- The DEIS goes to great lengths to address impacts in Nevada (ostensibly in support of the extreme measures be proposed to solve both its long term and shortage supply needs) and the Central Arizona Project area while totally ignoring that Arizona's on river 4th priority users are in a far worse position than either of these areas for a number of reasons including:
 - (1) Neither our agricultural nor M&I users have a readily available alternative source of water to offset shortage reductions; e.g., no adjacent tributaries, no non Colorado River related surface water flows,

nor (based on Reclamation's current interpretation of Article V accounting under the Consolidated Decree in *Arizona and California*) is there any locally available, non-Colorado River groundwater..

- (2) The small (relative, e.g., to the SNWA and CAP service areas) population in the area, and the large geographic distances separating the on river P4 users, make financing of any water importation project unlikely at best.
- (3) Following agreements, e.g. with farmers or tribes, as are available to Central Arizona Project communities are not available to on river P4 users for a variety of reasons including the trading of our priority for the CAP (which did not benefit, and arguably harmed, on river users), on river tribes in Mohave and LaPaz settling their claims before our communities existed and thus such settlements make no provision for leasing to adjacent municipalities, and the apparent position of Arizona and CAP that ICS in any form is not available to us without forbearance by Arizona and CAP.
- (4) Limited, if any (investigation is ongoing) adjacent basins unconnected to the River in which recharge, and recovery, could occur (i.e., our own banking program).
 - The ROD needs to include the Arizona/Nevada shortage sharing agreement as submitted with the Basin States Proposal and a provision that the proceeds of that agreement are to first be used to hold the on river P4 M&I users, the first impacted by this "deal", harmless (i.e., as to water and money) from the impact of this sharing agreement. Arizona has verbally indicated to MCWA that this is the intent but due to the immediate and detrimental impact of the Arizona/Nevada agreement MCWA takes the position this commitment should be recognized in the ROD.

D. Additional Comments

- An agreement with Mexico is a critical component of the Basin States Proposal and MCWA's support of same. The impacts of a failure to reach such an agreement are not modeled in the DEIS but would no doubt have a significant impact on our members
- MCWA, its members, and Arizona as a whole appear to be penalized in the DEIS for its active planning for drought for decades (p.4-282). The DEIS dismisses the significant economic impact of the investments made to date, and projected into the future, by coming to the erroneous conclusion that due to Arizona's drought planning, there is no real impact on its M&I users.

- The projected depletion schedules and shortage impact tables in the DEIS do not accurately portray the various contracts and contract amounts held by MCWA and its various subcontractors. This should be corrected in the FEIS.
- Because a shortage has not been declared to date on the River, and because our M&I users take the most immediate and significant and disproportionate reductions, the FEIS should include a program for monitoring the economic, land use and public policy impacts of any declared shortage during the proposed interim period.
- Operation of the YDP at full capacity should commence as soon as possible in order to stop the loss of water now occurring as a result of the bypass flows to the Cienega de Santa Clara.
- Reclamation should immediately undertake programs and projects to augment system flows.
- Final shortage guidelines should be flexible in order to allow the appropriate response to changing conditions including, but not limited to, improved hydrologic conditions during the year(s) in which a shortage is declared and catastrophic conditions requiring cuts in excess of 600,00 a/f.

CONCLUSION

Subject to Arizona's comments as submitted by ADWR, and our comments as noted above, the Mohave County Water Authority strongly recommends that the Secretary choose the Basin States Alternative as the preferred alternative in the FEIS and adopt a ROD with the guidelines and criteria necessary to implement the Basin States Alternative in substantial conformance with the carefully negotiated Basin States' Proposal.

Sincerely,


Maureen R. George
General Counsel
Mohave County Water Authority

Attachment: Exhibit 1; Director's Shortage Sharing Workgroup Recommendation, October 24, 2006 (Revised) Final

Cc: Herbert R. Guenther, Director, Arizona Department of Water Resources (email)
Board Members, Mohave County Water Authority
Les Byram, Mayor, City of Kingman – (email)
Diane Vick, Mayor, Bullhead City – (email)
Tom Sockwell, Supervisor, Mohave County – (email)
Tom Griffin, Mohave Water Conservation District – (email)
Paul Maxwell, Golden Shores Water Conservation District
Doyle Wilson, Lake Havasu City – (email)

Director's Shortage Sharing Workgroup Recommendation

October 24, 2006
(Revised)
Final

In 2005, the Director established the Arizona Shortage Sharing Stakeholder Workgroup (Workgroup). The Workgroup had two specific goals:

1. Develop a recommendation to the Director regarding the appropriate volume and implementation strategy for implementing future Colorado River shortages in the lower basin.
2. Develop a recommendation to the Director for allocating shortages between the Central Arizona Project (CAP) and equivalent priority mainstream Colorado River water users.

The Workgroup effort supports a larger Bureau of Reclamation (Reclamation) Environmental Impact Analysis process to develop lower basin shortage criteria and conjunctive management strategies for the operation of Lakes Powell and Mead. Reclamation currently plans to issue a Record of Decision in December 2007.

Shortage Volume and Implementation Strategy

The Workgroup developed the following recommendation for implementing lower basin shortages:

1. At or below Lake Mead elevation 1075 feet, 400,000 acre-feet shortage
2. Below elevation 1050 feet, 500,000 acre-feet shortage
3. Below elevation 1025 to 1000 feet, 600,000 acre-feet shortage
4. Below elevation 1000 feet, reconsultation with Reclamation and the states

The recommendation assumes that the first step will be to reduce water deliveries to Mexico and the next step will be to calculate shortage sharing with Nevada. Hydrologic conditions that necessitate reductions in excess of 600,000 acre-feet will trigger a Secretarial consultation process to determine how to implement additional reductions in the least damaging and most equitable manner possible. That consultation process has not been defined, but should be developed with input from the basin states.

The Director forwarded this recommendation to the other Colorado River basin states, and it has been incorporated into the *Seven Basin States' Preliminary Proposal Regarding Colorado River Interim Operations, February 3, 2006*, with one modification, that reconsultation would be triggered at elevation 1025.

Shortage Allocation Between CAP and Fourth Priority Mainstream Entitlements

The Workgroup analyzed methods for allocating shortage reductions between CAP and fourth priority mainstream water users. The CAP has an established priority system for implementing shortage reductions. Excess water supplies are reduced first. If additional reductions are needed, non-Indian agricultural priority water supplies are reduced until gone, and finally municipal/industrial/Indian uses are reduced according to the formula in the Gila River Indian Community Water Rights Settlement

Director's Shortage Sharing Workgroup Recommendation
October 24, 2006
(Revised)
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Agreement. There is no equivalent shortage implementation system for fourth priority mainstream water users. Fourth priority mainstream uses (agricultural and municipal) will be reduced proportionately as soon as Arizona Colorado River shortage reductions are implemented. Future estimated shortage reductions to mainstream users including Lake Havasu and Bullhead City run as high as 30 percent. Under Reclamation's current interpretation for Article V accounting, there is no locally available, non-Colorado River water supply to offset these shortage reductions.

The Director requested that a small technical subgroup of Workgroup stakeholders begin working with the Department to develop a shortage allocation recommendation. The technical group established principals to guide a shortage allocation strategy:

1. Define a method for the Secretary to utilize when allocating shortages to Arizona users
2. Beneficiaries bear the costs of shortage protections
3. Shortages must be allocated in a reasonable manner based on existing contracts and agreements
4. To the extent possible, treat similar users groups equitably

The Mohave County Water Authority (MCWA) presented a recommendation for proportional shortage reductions to fourth priority mainstream water supplies based on entitlement. Shortage reductions to mainstream domestic water supplies could be mitigated by the Arizona Water Banking Authority. The Department completed additional technical analysis of the proposal, which was endorsed by the technical group. The technical group recommends that Arizona fourth priority shortages be allocated as follows:

1. Determine shortage amount and allocation to Mexico. Allocate the remaining shortage amount first to Nevada, and the remainder to Arizona. The enclosed spreadsheet first allocates 16.7% of the shortage to Mexico. The remaining shortage amount is then allocated 7.4% to Nevada and the remainder to Arizona.
2. Determine the estimated priority 1-3 consumptive use amount based on the last non-shortage year use. Determine the **Total Water Supply Available for Fourth Priority Diversion**. Subtract the priority 1-3 consumptive use amount from the Arizona Colorado River water allocation of 2,800,000 acre-feet.
3. Determine the **Fourth Priority Mainstream Shortage Percentage**. Divide the fourth priority mainstream diversion entitlement, 164,652 acre-feet, by the Total Water Supply Available for Fourth Priority Diversion (#2).
4. Determine the total water supply **Available for Fourth Priority Diversion after Shortage Reduction**. Subtract the Arizona portion of lower basin shortage from Total Water Supply Available for Fourth Priority Diversion amount (#2).
5. Determine the **Fourth Priority Mainstream Shortage Reduced Water Supply**. Multiply the Available for Fourth Priority Diversion after Shortage Reduction (#4) water supply by the Fourth Priority Mainstream Shortage Percentage (#3).
6. Determine the remaining, CAP water supply. The Total Water Supply Available for Fourth Priority Diversion amount is based on estimated priority 1-3 water use. Actual use may be higher than estimated, and could result in an inadvertent CAP overrun. The CAP has agreed to be responsible for payback, under the Inadvertent Overrun and Payback Policy, up to the amount of the water user's entitlement. Actual use may be lower than estimated, resulting in an increased water supply for CAP.

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Since there is a fixed maximum diversion entitlement for fourth priority mainstream water users, as noted in the *Contract Between the United States and the Central Arizona Water Conservation District for Delivery of Water and Repayment of Costs of the Central Arizona Project, December 1, 1988*, the mainstream fourth priority water supply has been calculated based on that entitlement. After determining the mainstream fourth priority water supply, the remaining water supply is available for diversion by the CAP, including any available return flow from mainstream water uses.

The shortage allocation recommendation includes the opportunity for mainstream municipal water users to firm 100 percent of their individual municipal/industrial entitlements. Based on updated population projections (2003) the AWBA would need between 450,000 and 525,000 acre-feet of credits for fourth priority mainstream municipal and industrial water users. As AWBA credits are used and replaced, the new credits will be earmarked in the name of the entity that replaced the credits, thereby creating a revolving fund. The AWBA has not foreclosed the opportunity for any fourth priority mainstream entitlement holder to contract with the AWBA for firming.

Shortage Sharing Scenarios - Pro Rata Reductions Based On Priority 4 Entitlements

(Values in Acre-feet)

Year	Priority 1-3 Mainstream Projected Consumptive Use ¹	Available for Priority 4 Diversion - Normal Supply ²	Priority 4 Mainstream Total Entitlement	Priority 4 Mainstream Shortage Sharing Percentage	Arizona Portion of Lower Basin Shortage ³	Available for Priority 4 Diversion - Reduced Supply	Priority 4 Mainstream Diversion - Reduced Supply	Projected Priority 4 Mainstream Diversion ¹	Priority 4 Mainstream Diversion - Net Reduction
400,000 Acre-Foot Shortage									
2010	1,171,867	1,556,133	164,652	10.58%	308,588	1,247,545	132,001	155,880	23,879
2016	1,177,135	1,550,865	164,652	10.62%	308,588	1,242,277	131,890	158,961	27,071
2025	1,185,597	1,542,403	164,652	10.68%	308,588	1,233,815	131,710	162,362	30,652
2031	1,191,580	1,536,420	164,652	10.72%	308,588	1,227,832	131,582	163,799	32,217
500,000 Acre-Foot Shortage									
2010	1,171,867	1,556,133	164,652	10.58%	385,735	1,170,398	123,838	155,880	32,042
2016	1,177,135	1,550,865	164,652	10.62%	385,735	1,165,130	123,699	158,961	35,261
2025	1,185,597	1,542,403	164,652	10.68%	385,735	1,156,668	123,475	162,362	38,887
2031	1,191,580	1,536,420	164,652	10.72%	385,735	1,150,685	123,314	163,799	40,485
600,000 Acre-Foot Shortage									
2010	1,171,867	1,556,133	164,652	10.58%	462,881	1,093,251	115,675	155,880	40,204
2016	1,177,135	1,550,865	164,652	10.62%	462,881	1,087,983	115,509	158,961	43,452
2025	1,185,597	1,542,403	164,652	10.68%	462,881	1,079,521	115,239	162,362	47,122
2031	1,191,580	1,536,420	164,652	10.72%	462,881	1,073,538	115,047	163,799	48,752

ENDNOTES

- ¹ Source: Arizona Department of Water Resources 2003 mainstem Colorado River water use projections.
- ² An amount of 72,000 acre-feet has also been deducted to account for higher priority Ak-Chin and Salt River Pima-Maricopa Indian settlement water.
- ³ This amount is determined by first deducting Mexico's share (16.7%) of the total Lower Basin shortage. The remaining shortage volume is apportioned first to Nevada (7.4%) and the remainder to Arizona.