

From: Val Danos [VDanos@amwua.org]

Sent: Monday, April 30, 2007 2:41 PM

To: strategies@lc.usbr.gov

Subject: DRAFT EIS COMMENTS

Attachments: L-Colo River Shortage EIS.pdf

Dear Sir or Madame:

Attached are the comments of the Arizona Municipal Water Users Association for your information and review.

V.C. Danos P.E.

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April 30, 2007

Regional Director
Attn: BCOO-1000
Lower Colorado Region
U.S. Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006

Dear Sir or Madame:

The Arizona Municipal Water Users Association (AMWUA) has reviewed the “Draft Environmental Impact Statement for Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead” (DEIS). For the reasons set forth in these comments, AMWUA supports selection of the Basin States Alternative as the preferred alternative in the final environmental impact statement and implementation of the Basin States Alternative through the final record of decision. Additionally, AMWUA endorses and supports the comments of the Arizona Department of Water Resources (ADWR) submitted on behalf of the State of Arizona.

Interest of AMWUA

The AMWUA members--the Arizona Cities of Avondale, Chandler, Goodyear, Glendale, Mesa, Peoria, Phoenix, Scottsdale and Tempe, and the Town of Gilbert--collectively represent 3.29 million persons, or over 87% of the population of Maricopa County, Arizona. The AMWUA members have allocations for Central Arizona Project (CAP) Municipal and Industrial (M&I) priority water totaling 297,267 acre-feet, which is 46% of the total allocation of 638,823 acre-feet of CAP M&I priority water. The CAP is vital to the continuing economic growth and health of central Arizona in general and the AMWUA members in particular. Consequently, the AMWUA members have an especial concern regarding the frequency and magnitude of shortages for the lower Colorado River basin.

AMWUA Supports the Basin States Alternative as the Preferred Alternative

The Basin States Alternative, developed by the seven Colorado River Basin States, is a compromise alternative acceptable to each of these States. In selecting the preferred alternative and finalizing the record of decision, the Secretary of the Interior (Secretary) should recognize the value of this unique compromise. The Basin States Alternative does not require any additional statutory authorization and it is the only alternative that can be implemented immediately after the Secretary issues the final record of decision.

The DEIS indicates, and the Bureau's presentation at the public hearings held in early April reiterated, that the Secretary's preferred alternative may be a hybrid of some or all of the alternatives identified in the DEIS. AMWUA does not support a hybrid of the DEIS alternatives. For example, a hybrid that prioritizes power generation over water supply is flawed or unacceptable for the reasons explained below. A hybrid alternative that provides for the land following provisions of the Conservation Before Shortage Alternative is problematic from a funding perspective since the DEIS does not indicate or analyze how a land following program described in the Conservation Before Shortage Alternative will be funded.

AMWUA Water Management Programs

The AMWUA members' location in the Sonoran Desert has historically required them to conservatively manage their water supplies. With enactment of the Arizona Groundwater Management Act of 1980 (GMA) and the GMA's restrictions on groundwater use, the AMWUA members initiated extensive and costly efforts to comprehensively:

- a. Evaluate the amount and reliability of their individual sources of renewable supplies;
- b. Augment their supplies; and,
- c. Develop and implement demand management programs related to both ongoing water conservation and drought response.

For decades, the AMWUA members have been actively planning and preparing to address water shortages. Indeed, the AMWUA members' water management plans are recognized nationally as models of effective planning to conserve water and ease the negative impacts of drought on the customers of municipal water systems. Adoption of the Basin States Alternative as the preferred alternative in the final environmental impact statement will provide the certainty necessary for the AMWUA members to continue the responsible planning necessary to address the adverse impacts that could occur during Colorado River shortages.

Record of Decision Guidelines

AMWUA's members expect and need the final record of decision to clearly and unambiguously set forth the guidelines that the Secretary will use to declare a shortage in the lower basin. The record of decision should identify and adopt guidelines consistent with implementation of the Basin States Alternative that the Secretary must follow in formulating each of the annual operating plans through 2026 to:

- a. Determine the conditions under which a shortage will be declared in the lower Colorado River basin;
- b. Determine the amount of water which will be released from Lake Powell to the lower basin;

- c. Determine how much of the shortage will be borne by each of the three lower basin States and Mexico; and,
- d. Determine how much of the Arizona shortage will be borne by each of the Priority 4 water contractors located in Arizona pursuant to the Arizona recommendations identified below in the Lower Basin Shortage Sharing section of this letter.

The Basin States Alternative requires that the record of decision acknowledge that the lower basin States must agree to the terms and conditions for forbearing, if necessary, their rights to delivery of Colorado River water in order to allow for the development, storage and delivery of any Intentionally Created Surplus (ICS) as defined by the DEIS. AMWUA would object if the Secretary issued a unilateral authorization that allowed for the creation of an ICS.

Finally, the record of decision should state that the Secretary will consult with the seven basin States if the Secretary is considering declaring a shortage to the lower basin States exceeding 500,000 acre-feet. The goal of this consultation should be to minimize the impacts on the lower basin States in general, and on Arizona and the CAP in particular.

Lower Basin Shortage Sharing

As contemplated by the Basin States Alternative, Arizona and Nevada have finalized and executed a Shortage Sharing Agreement dated February 9, 2007. The preferred alternative and the record of decision must be consistent with this Shortage Sharing Agreement.

In 2004, ADWR established an intrastate process involving all interested and affected parties in Arizona to develop an Arizona position regarding shortage sharing between the CAP and the other Arizona Priority 4 Colorado River contractors located along the River. The Arizona position regarding intrastate shortage sharing is described in the "Director's Shortage Sharing Workgroup Recommendation, October 24, 2006, (Revised) Final" and it is AMWUA's understanding that the October 24, 2006 Recommendation has been transmitted to the Bureau by ADWR prior to the issuance of the DEIS, and that another copy is being transmitted by ADWR in their comments on the DEIS. The preferred alternative and the record of decision must also be consistent with this Recommendation.

Statutory Considerations

The Secretary should not adopt an alternative that prioritizes power generation ahead of water supply. Historically, and contrary to law, the Bureau's models of Colorado River operations, the results of which have been used to develop the annual operating plans, have "protected" the minimum power pool at Lake Powell. Operation of Lakes Powell and Mead for generation of electrical energy at the expense of water supply is inconsistent with the provisions of the Colorado River Compact of 1922, the Boulder Canyon Project Act of 1928 and the Colorado River Storage Project Act of 1956. This reason alone argues against selection of the Reservoir Storage Alternative as the preferred alternative.

Like the Reservoir Storage Alternative, the Conservation Before Shortage Alternative requires statutory changes in order to be implemented. Creation of an ICS in Mexico would require a change in the 1944 water treaty between the United States and Mexico if the net effect is to provide for the delivery of water to Mexico in excess of the United States' treaty obligation. Moreover, any water released as a result of land fallowing in Arizona is subject to diversion by the CAP absent any agreement to forbear by the State of Arizona and the Central Arizona Water Conservation District (CAWCD).

The Yuma Desalting Plant

The DEIS analysis assumes that the Yuma Desalting Plant is not operating, thereby ignoring a water source of almost 100,000 acre-feet that could minimize the impact of future shortages. AMWUA's November 30, 2005 letter to the Bureau during the scoping process stated that the DEIS should assume full operation of the Yuma Desalting Plant, yet the DEIS does not indicate why the Bureau made the no operation assumption for the DEIS. Additionally, if there is an obligation to replace the bypass flows, then the final environmental impact statement should describe the obligation and cite the relevant requirement(s) establishing the obligation.

Economic Impacts on CAP Municipal Water Users

The DEIS is woefully inadequate in its explanation of the economic effects that would result from changes in deliveries of Colorado River water to municipal water users in Arizona. The DEIS all but dismisses these effects by concluding that "implementing statewide and local demand-side and supply-side strategies are expected to minimize adverse socioeconomic effects occurring during the maximum M&I shortage." (DEIS at p. 4-283)

As pointed out earlier, the AMWUA members have already taken aggressive and costly steps to address water shortages. Since enactment of the 1980 Groundwater Management Act, they have spent more than \$33 million on water conservation programs that include ordinances governing landscaping, plumbing retrofit rebate programs, leak detection and control programs, grant programs, and water rate increases. Consequently, the opportunity to make up for shortages in deliveries of CAP water through conservation programs is very limited.

Additionally, to ensure that adequate water supplies are available for their customers, the AMWUA members have also implemented comprehensive effluent reuse programs, adopted development impact fees, and established extensive recharge programs. All of these programs come at considerable expense. For example, the Arizona Water Bank (AWB) is storing water underground to firm the basic CAP M&I priority allocation. According to its 2006 Plan of Operation, the Arizona Water Banking Authority (AWBA) will have spent over \$62,000,000 through 2006 to store water in Maricopa County. These funds are a combination of ad valorem taxes collected in Maricopa County, pump taxes collected in the Phoenix Active Management Area, and a modest contribution from the State's general fund.

AMWUA members also rely on CAP Indian priority and CAP Non-Indian Agricultural priority water for a portion of their renewable water supplies. The members have been storing water independently of the AWB to firm this portion of their CAP supplies.

The AWBA and the CAWCD have been working with local interests to develop a plan for recovery of the water stored by the AWB. When the recovery plan is developed and finalized, there will be additional costs incurred to recover the stored water. Moreover, the AMWUA members will incur significant costs to replace the shortfall in their CAP Indian and NIA priority supplies.

In summary, it is incorrect to assume that the socioeconomic impacts on the AMWUA members from changes in deliveries of CAP water can be minimized in any material way by demand-side and supply-side strategies.

Other Issues

1. The final environmental impact statement should recognize that the Southern Nevada Water Authority is planning on modifying its intakes at Lake Mead to provide the capability to withdraw water at an elevation of 856 feet starting in 2011.
2. The final environmental impact statement should note that while the guidelines that are the subject of the DEIS are considered interim and expire at the end of 2026, the impacts, especially the economic impacts, will carry over post-2026.

We appreciate the opportunity to comment on the DEIS. For the record, this letter is being transmitted via email with a paper original to follow.

Sincerely,



Steven L. Olson
Executive Director