



SOUTHERN NEVADA  
WATER AUTHORITY

STATE OF NEVADA



COLORADO RIVER COMMISSION  
OF NEVADA

April 27, 2007

Honorable Dirk Kempthorne, Secretary  
Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Re: Nevada's Comments on *Draft Environmental Impact Statement, Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead*

Dear Secretary Kempthorne:

Thank you for the opportunity to comment on the *Draft Environmental Impact Statement, Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead* (72 Fed. Reg. 9,026) (Feb. 28, 2007) (hereinafter "DEIS"). The Southern Nevada Water Authority ("SNWA") and Colorado River Commission of Nevada ("CRC") (together hereinafter jointly referred to as "Nevada") submit these comments related to Nevada-specific items in the DEIS. Additionally, Nevada supports the comments made jointly by the Seven Basin States that are sent under separate cover. The following comments are presented according to the order in which the subjects related to the comment appear in the DEIS.

### **Basin States' Proposal**

Nevada points out that some consideration needs to be given to the fact that implementation of any alternative other than the Basin States' Proposal will carry with it a significant degree of uncertainty. The Basin States' Agreement, Forbearance Agreement and Arizona-Nevada Shortage Sharing Agreement are each contingent upon the issuance of a Record of Decision that is consistent with the material terms of those agreements. The several compromises agreed to by the parties to these agreements make it possible for components of the proposed action, such as coordinated management of Lakes Mead and Powell and the creation and release of the Intentionally Created Surplus (ICS), to be implemented without adversarial proceedings between the Basin States and major water users on the Colorado River.

In this same context, Nevada does not agree with all of the legal interpretations and modeling assumptions used in the DEIS. However, it has agreed to set these disagreements aside for the Interim Period to support a compromise agreement among the Basin States that Nevada believes to be in the best interests of the entire Colorado River community. Because the several compromises in the Basin States' Proposal would not be preserved if an alternative other than the Basin States' alternative is selected, Nevada strongly urges the selection of the Basin States' Proposal as the Preferred Alternative in the Final Environmental Impact Statement ("FEIS") and the implementation of the material terms of that proposal in the Record of Decision.

### **Analysis of Nevada Projects in the DEIS**

As the Secretary is aware, Nevada is currently pursuing three separate projects to develop System Efficiency, Tributary Conservation and Imported ICS, as those terms are defined in the Basin States Proposal, with delivery taken by SNWA from Lake Mead. Each of these projects has been agreed to among the parties to the Forbearance Agreement and final details regarding these projects will be set forth in exhibits to the Forbearance Agreement. During shortages, water from projects that would otherwise qualify as Tributary Conservation ICS and Imported ICS would be available for creation, release and delivery as Developed Shortage Supply. Nevada also anticipates that a Delivery Agreement between the United States, Nevada and possibly other Lower Basin entities that provides for delivery of water from these three projects will be executed concurrently with the ROD and requests that Reclamation include such analysis of the proposed Delivery Agreement in the FEIS as is necessary to allow for the Delivery Agreements execution concurrent with the issuance of the ROD.

The first of these three projects is participation in the Drop 2 Reservoir Storage Project in Imperial County, California, which would provide efficiencies in use of Lower Colorado River system water. This project is discussed at section 5.1.27 in the DEIS. Reclamation should issue a Final Environmental Assessment (EA) for this project shortly. The second project is construction of the Coyote Spring Well and Moapa Transmission System Project, in Clark County, Nevada that will convey groundwater from Coyote Spring Valley into the Muddy River. This project is discussed at section 5.1.22 of the DEIS. The Bureau of Land Management is anticipated to issue a Final EA for this project shortly. Project specific impacts are being analyzed under separate NEPA processes for these projects, and the DEIS sufficiently analyzes environmental effects to the Colorado River from the implementation of these projects. Therefore additional analysis by Reclamation in the FEIS, if any, should be sufficient to allow for the execution of a Delivery Agreement, concurrent with issuance of the ROD, authorizing Nevada to utilize water available from these two projects.

The third project that will be included within both the Forbearance Agreement and a Delivery Agreement is Tributary Conservation along the Virgin and Muddy Rivers. This project will either develop Tributary Conservation ICS that will be delivered within the same year that it is created, or develop Extraordinary Conservation ICS that can be stored in Lake Mead. The modeling used in

the DEIS has included Nevada's estimates for Virgin and Muddy River tributary conservation (as described in Appendix M, Chapter M.3.1.3), and the potential environmental impacts within the Colorado River system are described in the document. Proposed Interim Guidelines forwarded by the Basin States to the Secretary include the accounting and verification process for Tributary Conservation projects. In order to provide a full environmental evaluation, the FEIS should also evaluate potential effects within the Virgin and Muddy River systems and of execution of the proposed Delivery Agreement so that a Delivery Agreement that authorizes Nevada to utilize water from these projects can be executed concurrent with the ROD. In order to assist Reclamation with this analysis, Nevada has included a summary of the water rights involved as well as certain hydrologic and environmental data. This summary is attached as "Attachment A".

#### **General Comments on DEIS Volume One (Chapters 1 through 6)**

1. Section 2.3.3, Table 2.3-2, and Table M-2 in the DEIS imply that storage volume and delivery limitations discussed in those provisions apply to all classifications of Intentionally Created Surplus. In accordance with the Basin States' Proposal, these storage volumes and delivery limitations apply only to that classification of ICS termed "Extraordinary Conservation" in the Basin States' Proposal, and specifically do not apply to Tributary Conservation, System Efficiency, and Imported ICS as those terms are defined in the Basin States' Proposal.
2. Figure 3.2-1 and Figure ES-1 should be changed to show that SNWA's service territory includes all of Clark County. Currently the Figures show only the Las Vegas Valley in yellow; it should show all of Clark County in yellow.
3. Section 3.11.7.3 should discuss the Basic Management ("BMI") intake. This intake is located at 1050 feet msl and serves the industries within the BMI complex, portions of the Lake Las Vegas resort, golf courses, a Nevada Department of Wildlife fish hatchery, and the City of Henderson's treatment plant. Therefore, these uses served by the BMI intake will be threatened if Lake Mead levels drop below 1050 feet msl. Most of these impacts could be mitigated through use of SNWP water.
4. Table 3.14-2 reflects agriculture in Clark County. However, the inclusion of this table in the DEIS is misleading. The agricultural use displayed in this table does not use water from the Colorado River. Therefore, this agricultural use should be removed from the DEIS. As further discussed above, within Nevada, only those agricultural uses associated with SNWA's Tributary Conservation ICS projects along the Virgin and Muddy Rivers should be analyzed as part of the DEIS.
5. The statements in section 4.14.3.3 and ES.2.13.2 that "socioeconomic effects on southern Nevada's M&I sector resulting from the proposed alternatives would not be substantial" are

misleading. Reductions in water deliveries to Nevada anywhere between 13,000 and 84,290 acre-feet in any given year, as modeled in the DEIS,<sup>1</sup> will at some level begin to cause socioeconomic effects not only within Las Vegas and Clark County, but throughout Nevada. Unlike the other Basin States, Nevada does not have large agricultural water users to provide a buffer during drought through fallowing. Additionally, Nevada's water demand consists of hard, municipal demands that are not as flexible during drought. SNWA's Drought Plan is intended to ameliorate those effects and accommodate anticipated reductions in water deliveries. But the Drought Plan does not provide the type of absolute protection against either socioeconomic impacts or the possibility of interruptions in municipal water supplies that the DEIS implies.

Nevada feels strongly that, in accordance with the Basin States' Proposal, no reductions in delivery above 20,000 acre-feet in any year should be imposed upon Nevada without further consultation between the Secretary and the Basin States, and requests that the M&I socioeconomic impact analysis in the FEIS be refined to more accurately reflect different levels of socioeconomic impacts to M&I water users, including health and human safety concerns, for any reductions in deliveries above 20,000 acre-feet in any year.

6. Chapter 5, Section 5.1.21 should be modified to show that SNWA's commitment not to proceed with the Virgin River pipeline project remains in effect only if the Basin States' Proposal is implemented.

### **General Comments on Volume Two of the DEIS**

1. Table D-3 should be modified to reflect that SNWP is not the only user of Colorado River water in Nevada upstream of Hoover Dam. Other users, such as BMI and PABCO, should be represented in Table D-3. Alternatively, the title of the SNWP column could be changed to "Uses above Hoover Dam," with the notation that "SNWP is the primary user above Hoover Dam."
2. On pages M-3 and M-4, the FEIS should make it clear that evaporation losses are only assessed at the end of the year on what is remaining in an ICS account at that time. Therefore, no evaporation loss is assessed on ICS that is created and delivered within the same year.
3. Throughout the document, and particularly on page M-6 and in Table M-3, there are references to the possibility of desalinization being used to augment flows in the Colorado River. However, other system augmentation projects besides desalinization are being considered, so when this subject is discussed in the FEIS, the word "desalinization" should

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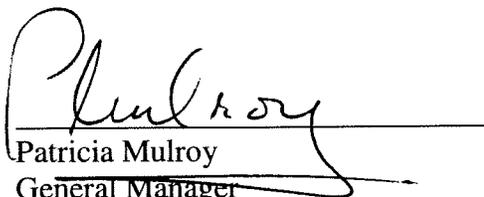
<sup>1</sup> This range does not include modeling within some alternatives that would allow Lake Mead elevations to drop below 1,000 feet msl, leaving SNWA and approximately 2 million people without 90% of the water supply they rely upon.

be changed to "system augmentation." Also on page M-6, in the first paragraph, the year 2012 should be changed to 2020.

4. In Table M-3, storage and delivery schedules for Nevada's Tributary Conservation water need to be updated to include the recovery in years 2025 through 2036 of water banked between 2008 and 2024. Also, the Drop 2 project should be included in this table.
5. The first paragraph on page M-6 should be modified as follows: delete first three words, replace with "Nevada state groundwater introduced directly into Lake Mead or wastewater produced by these introductions are assumed to be available during the period from 2009 through 2060." Throughout the paragraph, the term "return flow" should be replaced with "introductions or wastewater produced from introductions." An additional sentence should be added to reflect that Imported ICS may be stored during all water supply conditions except Flood Control Surplus conditions, and may be delivered during Normal, ICS Surplus and Shortage conditions.
6. The third paragraph on page M-6 should reflect that Nevada may take Drop 2 Reservoir water at a maximum rate of 40 kaf each year until a total of 500 kaf has been taken (not 300 kaf).

In closing, Nevada thanks you for your leadership and urges Interior to adopt a ROD that includes all of the material terms of the Basin States' Proposal.

DATE: 4-27-07

  
Patricia Mulroy  
General Manager  
Southern Nevada Water Authority

DATE: 4-27-07

  
Richard W. Bunker  
Chairman  
Colorado River Commission of Nevada

- c: Robert W. Johnson, Commissioner, U. S. Bureau of Reclamation  
Rick Gold, Regional Director, U. S. Bureau of Reclamation, Upper Colorado Regional Office  
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Larry Walkoviak, Deputy Regional Director, U. S. Bureau of Reclamation, Lower Colorado Regional Office

## **ATTACHMENT “A”**

### ***Nevada Comments on Draft Environmental Impact Statement, Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead***

SNWA has been purchasing pre-Boulder Canyon Project Act (BCPA) Virgin River and Muddy River water rights in Nevada since 1997. Water rights historically being used for agriculture along these rivers are voluntarily being retired and willingly sold or leased to willing buyers. The following information summarizes the pre-BCPA rights on the Muddy and Virgin Rivers along with the associated beneficial impacts of retiring these rights through the proposed Tributary Conservation program.

#### **Virgin and Muddy River Water Rights Background**

Pre-BCPA water rights on the Virgin River have a priority date of pre-1905 and were decreed by the Nevada Supreme Court in 1927. The decree allocated 17,785 acre-feet per year (afy) to the Bunkerville and Mesquite Irrigation Companies. SNWA currently owns shares in the Bunkerville Irrigation Company representing approximately 3,700 afy of surface water rights.

On the Muddy River, water rights were decreed by Nevada’s 10<sup>th</sup> District Court (now 8<sup>th</sup> District Court) in 1920. The decree allocated the entire flow of the Muddy River. SNWA currently owns shares in the Moapa Valley Irrigation Company representing approximately 7,000 afy of surface water rights.

Between the Virgin and Muddy Rivers, SNWA anticipates acquiring approximately 30,000 afy of pre-BCPA water rights, which is the same quantity analyzed in the DEIS as represented in Table M-3. The water rights that are currently retired or will be retired in the future will be conveyed to Lake Mead via the Overton Arm under the proposed Tributary Conservation program.

#### **Anticipated Tributary Conservation**

Agricultural acreage on the Virgin River is currently about 823 acres out of a total of 1,963 decreed acres. The majority of the existing agricultural acreage is in the Bunkerville Irrigation Company. Most of the Mesquite Irrigation Company agricultural lands as identified in the decree have been retired and portions of the agricultural water rights are being willingly sold or leased to willing buyers for non-agricultural uses, such as golf courses, in the area of Mesquite, Nevada.

Agricultural acreage on the Muddy River is currently about 2,253 acres of land located in Lower Moapa Valley and small portions of the upper Muddy River, including the Moapa Band of Paiutes’ land. These lands, similar to the Virgin River area, are slowly being retired and the water rights associated with the land are being used for non-agricultural purposes.

## Analysis of Impacts to the Virgin and Muddy River from Tributary Conservation

The water rights used for agricultural uses that have been or will be retired will be conveyed to Lake Mead via the Overton Arm in one of two fashions. If the flow volume is required to run through irrigation company ditches to maintain head and avoid fiscal impacts associated with upgrading ditches to accommodate less flow, the water will run through the ditches and return to the mainstem of the Muddy or Virgin River at some downstream return point. Alternatively, the water could be left in the mainstem of the river and not flow through the irrigation company ditches. Since this water is water that historically has composed the flow of the river it will not create any new concerns associated with flood control or channel capacity. In addition, the water left in the mainstem will augment and sustain existing flows in both rivers allowing for assured flows that will benefit recreation, wildlife, and aesthetics. Water quality benefits may also occur due to less agricultural runoff entering the rivers.

### Cumulative Impacts

The related environmental programs described in Chapter 4.8.1 and federal statutes and policies in Chapter 5.1 should also include the following programs pertinent to the Virgin River and Muddy River:

#### Virgin River Habitat Conservation and Recovery Program

The Virgin River Habitat Conservation and Recovery Program (HCRP) is currently under development to satisfy the requirements of the Biological Opinion on the Sale of 10,620 Acres of Public Lands in Clark County, Nevada to the City of Mesquite under the Mesquite Lands Act of 1986, as amended in 1996 and 1999. Covered species proposed for the HCRP include: Virgin River chub (*Gila seminuda*), woundfin (*Plagopterus argentissimus*), southwestern willow flycatcher (*Empidonax trallii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), and yellow-billed cuckoo (*Coccyzus americanus*).

#### Muddy River Recovery Implementation Program

The Muddy River Recovery Implementation Program (RIP) is currently under development to satisfy the requirements of the Intra-Service Programmatic Biological Opinion for the Proposed Muddy River Memorandum of Agreement Regarding the Groundwater Withdrawal of 16,100 Acre-Feet per Year from the Regional Carbonate Aquifer in Coyote Spring Valley and California Wash Basins, and Establish Conservation Measures for the Moapa Dace, Clark County, Nevada. Covered species proposed for the RIP correspond to the species listed in the 1996 Recovery Plan for the Rare Aquatic Species of the Muddy River Ecosystem and include: Moapa dace (*Moapa coriacea*), Virgin River chub (*Gila seminuda*), Moapa speckled dace (*Rhinichthys osculus moapae*), Moapa White River springfish (*Crenichthys baileyi moapae*), Moapa pebblesnail (*Fluminicola*

*avernalis*), grated tryonia (*Tryonia clathrata*), Moapa Warm Spring riffle beetle (*Stenelmis moapa*), and Amargosa naucorid (*Pelocoris shoshone shoshone*).