

Appendix A

The Secretary's Letter to the Seven Colorado River Basin States on May 2, 2005



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 02 2005

Honorable Jon Huntsman, Jr.
Governor of Utah
Salt Lake City, Utah 84114

Dear Governor Huntsman:

In accordance with the 2005 Annual Operating Plan for Colorado River Reservoirs (2005 AOP), transmitted to you by my letter of November 19, 2004, the Department has conducted a mid-year review to determine if the runoff forecast warrants an adjustment to the release amount from Lake Powell for the remainder of water year 2005. The Department has conducted public meetings and sought recommendations from the seven Colorado River Basin States on this issue.

The Department has reviewed all of the information presented during this review, and we have concluded that an adjustment to the release amount from Lake Powell during the next five months is not warranted. In particular, we note that the current runoff forecast into Lake Powell during the spring snowmelt season from April - July, 2005 is projected to be 106% of average, and that overall Colorado River system storage is approximately 10% better at this time than had been projected last fall when the Department committed to undertake this mid-year review. Moreover, if runoff in the Colorado River Basin remains at average levels, the contents of Lake Mead and Lake Powell are projected to be approximately equal by September 2006. This transmittal supplements the 2005 AOP and incorporates by reference the applicable provisions of the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs (Operating Criteria), and the 2005 AOP, including but not limited to, Article II(5) of the Operating Criteria and the section entitled "Disclaimer" at page 27 of the 2005 AOP.

In previous multi-year droughts in the Colorado River Basin we have seen individual years of average or above-average flow. Therefore, it is premature to conclude from this one year of average flow in the Upper Basin and above average flow in the Lower Basin that the drought in the Colorado River Basin has ended. With reduced system storage at this time, we remain very concerned about the impacts of drought throughout the Basin. Accordingly, in upcoming consultations on development of the 2006 AOP, scheduled to begin in June of this year, the Department will propose to include a provision that requires a mid-year review next April if the March 15, 2006 runoff forecast projects decreased storage in the Colorado River system. The purpose of the review will be to determine if an adjustment to the release amount from Lake Powell for water year 2006 is warranted.

When developing annual operating plans for the Colorado River, including this and future mid-year reviews, the Department retains authority pursuant to applicable law and the Operating Criteria to adjust releases from Glen Canyon Dam to amounts less than 8.23 million acre-feet per year. This authority was recognized at the time the Department established the Operating Criteria in 1970. Specifically, the Department transmitted the following statement to the Governors of each of the Colorado River Basin States on June 9, 1970: "...[T]he Operating Criteria imposes no firm or fixed obligation that 8.23 million acre-feet be released each year from Lake Powell. That quantity is stated as an "objective" of the Operating Criteria." At the time the Department made this statement it had been considering a formal request by the Upper Basin states to reduce the referenced Art. II release volume of 8.23 million acre-feet. The unambiguous statement that the "Operating Criteria imposes no firm or fixed obligation that 8.23 million acre-feet be released each year from Lake Powell" reflects the contemporaneous position of the Secretary of the Interior at the time of the adoption of the Operating Criteria. Like this statement of Departmental position, the relevant provisions of Art. II of the Operating Criteria remain unchanged since 1970.

Recent progress in the administration of the Colorado River has been achieved, in large part, due to the close and productive working relationships among the Colorado River Basin states. While we regret that the Basin states were unable to reach a consensus recommendation on operations for the remaining five months of this water year, we appreciate the extensive and productive efforts of the Governor's representatives to review and consider actions to address reduced supplies in the Basin. We believe that these discussions have produced a deeper understanding of the management challenges facing the Colorado River Basin and will facilitate our development of additional tools to improve coordinated management of the reservoirs in the Colorado River system.

The Department recognizes that it is preferable to develop strategies to address drought and other water management challenges in processes other than annual operating plan consultation meetings. In order to determine the most appropriate way to address these challenges, I am directing Reclamation to convene a meeting of the Colorado River Management Work Group by May 31, 2005. The purpose of the meeting will be to consult with the Colorado River Basin States and the public on the most appropriate processes and mechanisms to address these management challenges.

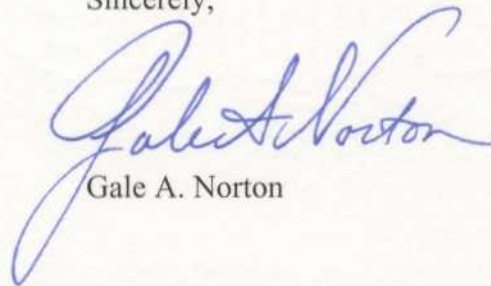
We do not underestimate the challenges we face in this effort. It has been well understood for decades that there are areas of substantial disagreement between the Upper and Lower Colorado River Basin states on a number of fundamental issues regarding interpretation of the Colorado River Compact of 1922. For example, the opinions of the Upper and Lower Basins differ as to the requirements under the Compact for contribution of water to meet the U.S.-Mexico Treaty of 1944. The Department intends to develop operational tools that can continue to assure productive use of the Colorado River into the future, while avoiding unnecessary, protracted or destabilizing litigation.

After this consultation, the Department intends to issue a notice through the Federal Register on or before June 15, 2005 to begin work on these matters. At a minimum, we will address the following matters in our upcoming Federal Register notice: 1) Development of Lower Basin Shortage Guidelines, and, 2) Development of Conjunctive Management Guidelines for Lake Powell and Lake Mead. It is my expectation that, regardless of the particular process utilized, the Department will complete these processes by December 2007.

In the past five years we have seen many achievements on the Colorado River. However, recent years of drought, decreasing system storage and increasing demands for Colorado River water supplies require that all users of Colorado River water adhere to the limitations established in conformance with the "Law of the River." The importance of the Colorado River to the Southwestern United States for water supply, hydropower production, recreation, fish and wildlife habitat, and other benefits dictates that all parties must work together to find creative solutions that will conserve reservoir storage and help to minimize the adverse effects of drought in the Colorado River Basin.

I remain committed to working with all stakeholders to find solutions within the framework of the Law of the River to ensure that the Department's management of the Colorado River continues to respect and implement the applicable provisions of the Colorado River Compact, the Mexican Water Treaty and other applicable law.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gale A. Norton", is written over the typed name.

Gale A. Norton

cc: Mr. D. Larry Anderson
Director
Utah Division of Water Resources
1636 West North Temple, Room 310
Salt Lake City, Utah 84116

Honorable Jon Huntsman, Jr.

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Identical letters sent to:

Honorable Dave Freudenthal
Governor of Wyoming
Cheyenne, Wyoming 82002

Honorable Bill Owens
Governor of Colorado
Denver, Colorado 80203

cc: Mr. Patrick T. Tyrrell
State Engineer
State of Wyoming
Herschler Building, 4th Floor East
Cheyenne, Wyoming 82002-0370

cc: Mr. Rod Kuharich
Director
Colorado Water Conservation Board
1313 Sherman Street, Suite 721
Denver, Colorado 80123

Honorable Kenny Guinn
Governor of Nevada
Carson City, Nevada 89701

Honorable Bill Richardson
Governor of New Mexico
Santa Fe, New Mexico 87501

cc: Mr. George Caan
Director
Colorado River Commission of Nevada
555 East Washington Avenue, Ste. 3100
Las Vegas, Nevada 89101-1048

cc: Mr. John D'Antonio
State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Honorable Janet Napolitano
Governor of Arizona
Phoenix, Arizona 85007

Honorable Arnold Schwarzenegger
Governor of California
Sacramento, California 95814

cc: Mr. Herb Guenther
Director
Arizona Department of Water Resources
500 N. Third Street
Phoenix, Arizona 85004

cc: Mr. Gerald R. Zimmerman
Executive Director
Colorado River Board of California
770 Fairmont Avenue, Suite 10
Glendale, California 91203-1035

cc: Honorable Stephen L. Johnson
Administrator
Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20460

Mr. Arturo Duran
Commissioner, United States Section
International Boundary and Water
Commission
4171 North Mesa, Suite C-100
El Paso, Texas 79902-1441

Mr. Don Ostler
Executive Director
Upper Colorado River Commission
355 South 400 East
Salt Lake City, Utah 84111

Members of the Colorado River
Management Work Group

Mr. Michael S. Hacskeylo
Administrator
Western Area Power Administration
P.O. Box 281213
Lakewood, Colorado 80228-8213

Mr. L. Richard Bratton
Chairman
Upper Colorado River Commission
P.O. Box 669
Gunnison, Colorado 81230

Colonel Richard G. Thompson
District Engineer
Corps of Engineers
Los Angeles District
915 Wilshire Blvd., Suite 980
Los Angeles, California 90017