

# **Appendix W**

## **Copies of Unique Comment Letters**

### **W.2 Federal Agency Comment Letters (F)**



## Department of Energy

Western Area Power Administration  
P.O. Box 11606  
Salt Lake City, UT 84147-0606

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JUN 17 '05

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Cntr #	3796067	
Fldr #	UC9643	
DATE	Initial	To
6/17	Ryan	438

Mr. Bob Johnson  
Regional Director  
Lower Colorado Regional Office  
U.S. Bureau of Reclamation  
P.O. Box 61470  
Boulder City, NV 89006-1470

JUN 13 2005

Mr. Rick Gold  
Regional Director  
Upper Colorado Regional Office  
U.S. Bureau of Reclamation  
125 South State Street, Room 6107  
Salt Lake City, UT 84138-1102

Dear Mr. Johnson and Mr. Gold:

In response to the Colorado River Management Work Group Process Meeting (Meeting) on May 26, Western is providing its comments about the issues raised. First, we commend Reclamation for proactively pursuing solutions to the challenges posed by low-water storage and large water demands on the Colorado River. Pursuing a solution, at this time, should mitigate the serious impacts to both the water and power users that, otherwise, might ensue in the future.

The two largest hydropower facilities in the Southwest are the Hoover and Glen Canyon Power Plants. Power from these plants plays a critical role in interconnected power system operations, stability, and reliability in the WACM and WALC control areas as well as the Western Interconnection as a whole. Additionally, the low-cost hydropower generation is crucial to the financial condition of many of our customers in the Upper and Lower Basins. These include municipalities, Native American tribes, electrical cooperatives, Federal and State facilities, and, of course, the many water users who rely on the Colorado River generation for project pumping.

This generation is the principal revenue source for Reclamation's irrigation projects in the Upper and Lower Basin States and many other uses on the river. Loss of either of these generation facilities would severely impact Western's ability to fund dam and power system operations and maintenance, repay the Federal investment in these facilities, and support the many environmental programs funded from power revenues. With this in mind, the focus of our comments is to ensure that Federal hydropower generation is provided serious consideration during this process for the benefit of the Colorado River Storage, Boulder Canyon, and Parker-Davis projects, our customers, and the general public.

The Meeting's purpose was to discuss the process by which the guidelines for operating in shortage or low-reservoir conditions will be developed and implemented. We believe there were two areas of concern related to the process. First, is the scope of the process - primarily whether Lake Powell releases should be within the scope of the process or only Lower Basin shortage guidelines. The second concern is the type of process utilized, such as modification of the Long-Range Operating Criteria (LROC) or development of interim guidelines. Directly related to the type of process is the duration of the guidelines developed and the ability to perform future reviews or updates of these guidelines.

During discussions at the Meeting about the type of process to pursue, an opinion was expressed that the process should be very similar to that of the Interim Surplus Guidelines (ISG) and should terminate coincident with the ISG in 2016. The ISG process involved an environmental impact

statement and a subsequent record of decision. Western has concerns regarding this approach. The current Hoover Electric Service Contracts terminate in 2017. Western could face tremendous uncertainty about the resources available at Hoover if the shortage guidelines were to expire a year before the new marketing period begins.

Of the options discussed, perhaps a modification of the LROC would be the best option for implementing the new shortage/low-reservoir guidelines. The advantages of this process are the following:

1. It provides continuity for the guidelines with regular reviews to enable changes as needed.
2. An extensive environmental review should not be required and would, therefore, be easier to implement.
3. Decisions made would be within the scope of the Secretary of Interior's discretionary authority to formulate and execute the LROC.

Finally, we support a process to

1. Incorporate shortage criteria in the Lower Basin that would recognize water right priorities in the Lower Colorado River, minimize the impacts on water quality of low reservoir conditions, and maintain power generation capacity to Lower Basin customers; and
2. Consider Upper Basin releases as contemplated by the Colorado River Compact that could enhance storage in Lake Powell to maintain power generation at Glen Canyon and continue to produce power repayment revenue during drought periods for the water user and CRSP customer benefits.

We appreciate this opportunity to provide comments about the issues raised at the Meeting.

Sincerely,



*Bradley S. Warren* *Jean Gray*

Bradley S. Warren  
CRSP Manager  
CRSP Management Center

Jean Gray  
Assistant Regional Manager  
for Power Marketing  
Desert Southwest Regional Office

cc:

Mr. Terry Fulp  
Area Manager  
Boulder Canyon Operation Office  
P.O. Box 61470  
Boulder City, NV 89006

Mr. Tom Ryan  
Upper Colorado Regional Office  
U.S. Bureau of Reclamation  
125 South State Street, Room 6107  
Salt Lake City, UT 84138-1147



International Boundary and Water Commission  
United States Section  
Engineering Department  
4171 N. Mesa, Suite C-100  
El Paso, TX 79902

July 20, 2005

Robert W. Johnson  
Regional Director  
Bureau of Reclamation  
Lower Colorado Region  
Attention: BCOO-1000  
P.O. Box 61470  
Boulder City, Nevada 89006-1470

Dear Mr. Johnson:

The United States Section of the International Boundary and Water Commission (USIBWC), has reviewed the news release entitled "Reclamation Seeks Public Comments on Development of Management Strategies for Lake Powell and Lake Meade Under Low Reservoir Conditions" dated June 15, 2005, and the Federal Register Notice on the action entitled "Colorado River Reservoir Operations: Development of Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions" hereon after referred to as Management Strategies. The USIBWC hereby provides the following comments presented on the Management Strategies document. These comments address potential discretionary and/or indirect impacts to the 1944 Water Treaty of the International Boundary and Water Commission, United States and Mexico (IBWC), and IBWC Minutes and USIBWC responsibilities that could result in adverse transboundary effects related to the waters of the Colorado River. Based on the information provided, trends may be that the days of surplus waters are at an end, water conservation is imperative and stable water quantity in the upper basin is necessary.

General Comments

1. The USIBWC continuously works with the Mexican Section of the International Boundary and Water Commission, on deliveries of Colorado River waters according to the 1944 Water Treaty. The 1944 Water Treaty is the abbreviation for "Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande" signed November 14, 1944. As defined in the 1944 Water Treaty, "Any other quantities arriving at the Mexican points of diversion, with the understanding that in any year in which, as determined by the United States Section, there exists a surplus of waters of the Colorado River in excess of the amount necessary to supply users in the United States and the guaranteed quantity of 1,500,000 acre-feet (1,859,234,000 cubic meters) annually to Mexico, the United States undertakes to deliver to Mexico, in the manner set out in Article 15 of this Treaty, additional waters of the Colorado River system to provide a total quantity not to exceed 1,700,000 acre-feet (2,098,931,000 cubic meters) a year." In respect to this treaty, we ask that any action you propose on the Management Strategies addresses the adverse impacts that may occur upon the water quantity. | 1

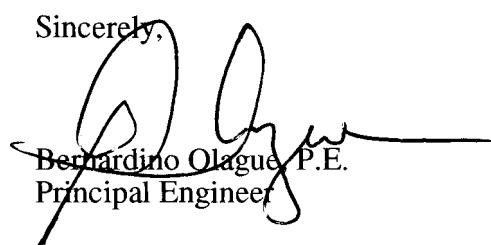
2. According to IBWC Minute No. 242, "The United States shall adopt measures to assure that not earlier than January 1, 1974, and no later than July 1, 1974, the approximately 1,360,000 acre-feet (1,677,545,000 cubic meters) delivered to Mexico upstream of Morelos Dam, have an annual average salinity of no more than 115 p.p.m. +/- 30 p.p.m. U.S. count (121 p.p.m. +/- 30 p.p.m. Mexican count) over the annual average salinity of Colorado River waters which arrive at Imperial Dam ..." The Management Strategies have the potential of causing adverse impact to water quality from the salinity of the Colorado River waters in both countries. We request that language be included in the Management Strategies stating the IBWC Minute No. 242 not be changed and that provisions are included to address potential salinity issues in the Management Strategy. | 2 | 3
3. We understand that existing water quantity is more stable in the lower basin reservoirs than in the upper basin, that salinity accumulates in the upper basin reservoirs and does not affect the lower basin, and water coming to Imperial Dam is of good quality. We would welcome Reclamation's support in a technical meeting with Mexico should future developments of the Management Strategies indicate a trend otherwise, such as an explanation of National Environmental Policy Act alternatives developed about water quantity and quality of deliveries made to Mexico. | 4

Specific Comment

1. Management Strategies, page 3, paragraph 2. Regarding the stated "... while demands for Colorado River water supplies have continued to increase.", and paragraph 3 "In the future, low reservoir conditions may not be limited to drought periods ..." and "... the Republic of Mexico has an allocation to the waters of the Colorado River ...," the USIBWC does not believe that the statements mean drought periods as defined in the 1944 Water Treaty, Article 10. Article 10 states, "In the event of extraordinary drought .... making it difficult for the United States to deliver the guaranteed quantity ..." Please update any reference to drought or the allocation of waters between the United States and Mexico unless they are being defined as stated in the 1944 Water Treaty. | 5

Thank you for the opportunity to review the document, and we appreciate your continued coordination with our agency regarding these activities. In case additional information is required, please have the person you designate contact Mr. Steve Fox at (915) 832-4736.

Sincerely,



\_\_\_\_\_  
Bernardino Olague, P.E.  
Principal Engineer

**Management Strategies for Lake Powell and Lake Mead  
Under Low Water Conditions  
Comments by the National Park Service**

**July 26, 2005 – Henderson, NV  
Gary Warshefski, Deputy Superintendent, Lake Mead NRA**

**July 28, 2005 – Salt Lake City, UT  
Kitty L. Roberts, Superintendent Glen Canyon National Recreation Area**

The Secretary of the Interior directed the Bureau of Reclamation to develop additional Colorado River management strategies to address operations of Lake Powell and Lake Mead under low reservoir conditions. The National Park Service is charged by Congress to manage the resources as well as recreational use on these reservoirs and the intervening reach of the river in Grand Canyon National Park and Glen Canyon National Recreation Area under the National Park Service Organic Act and the enabling legislation of the three units. The recreational opportunities provided by these park service units are substantial (14 million visitors annually) and result in direct and indirect economic benefits to the local and regional economies (estimated at over \$1 billion annually). In addition, nationally significant natural and cultural resources are associated with the reservoirs and the main stem Colorado River. The Bureau of Reclamation and the National Park Service enjoy a close working relationship which ensures that the requirements of both agencies are met.

Over the past five years prolonged drought conditions within the Colorado River watershed reduced overall storage volumes to 33 and 54 percent for lakes Powell and Mead, respectively, which has negatively affected recreational use and likely caused significant changes to the local and regional economies. The drought has caused direct economic hardship to NPS concessioners and hundreds of local businesses operating under NPS commercial use licenses that provide recreational services to the public at Lake Mead and Glen Canyon NRA's. The National Park Service, likewise has been substantially financially impacted in order to implement numerous emergency measures to help cope with the effects of drought on lake recreation. These measures have included: closing or extending launch ramps; moving or adjusting courtesy docks, sewage disposal facilities, navigational aids, and marina services (water, sewer, power and gas lines) etc., with a total cost approaching \$20 million over the past three years. The concessioners experienced reduced profits mostly due to increased expenditures to move and/or adjust marinas themselves. The specific economic ramifications to the local and regional economies caused by reduced recreational use are unknown but are thought to be significant. If drought conditions were to persist and water levels approached certain critical levels, boating access to the lakes may have to be discontinued altogether.

The National Park Service recognizes that the reservoirs were constructed to operate within a broad operational range (lake levels) and that their purposes included storage of water for future uses, providing for reclamation of arid and semiarid lands, providing for flood

control, recreation and power generation. However, when considering reservoir management strategies to provide water use in times of extended drought, we offer the following considerations in order to minimize impacts to lake recreation as well as other NPS resources:

1. Establish critical water levels on lakes Powell and Mead (below which many recreational services would be curtailed altogether) when defining shortage conditions and developing criteria for alternative water deliveries during shortage periods.
2. Evaluate the concept of conjunctive reservoir management during times of shortage (to the extent practicable under the law of the river) to optimize the recreation on both reservoirs while maintaining needed water deliveries, protecting water intake facilities and protecting hydropower production.
3. While developing monthly and daily release volumes and schedules during periods of shortage continue to evaluate the tradeoffs between the natural, cultural and recreation resource needs of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam (as required by the Grand Canyon Protection Act) and recreation on the two reservoirs.
4. Evaluate the impacts of alternative shortage strategies on the local and regional economies (including the Hualapai and Navajo tribes) along the Colorado River.
5. Evaluate the impacts on recreation and tourism of alternative shortage strategies on the local and regional economies along the Colorado River.
6. Evaluate the impacts of shortage strategies on other NPS units along the Colorado River (upstream of Lake Powell and downstream of Lake Mead).

We look forward to working with the BOR over the coming months to develop management strategies for the two reservoirs when shortage conditions exist. We also look forward to assisting the BOR in evaluating the impacts of any proposed strategies on the resources found within the NPS units along the entire Colorado River corridor.



**United States Department of the  
U.S. Fish and Wildlife Service**  
**2321 West Royal Palm Road, Suite 1  
Phoenix, Arizona 85021-4951**  
**Telephone: (602) 242-0210 FAX: (602) 242-2**

In Reply Refer to:  
LCR

August 18, 2005

U.S. DEPARTMENT OF THE INTERIOR		U.S. FISH & WILDLIFE SERVICE	
RECEIVED MARCH 3, 1849		FISH & WILDLIFE SERVICE	
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Memorandum

To        Regional Director (Attn: BCOO-1000), Bureau of Reclamation, Lower Colorado Region, Boulder City, Nevada

To:        Regional Director, (Attn: UC-402), Bureau of Reclamation, , Upper Colorado Region, Salt Lake City, Utah

From: Field Supervisor, Fish and Wildlife Service, Phoenix, Arizona

Subject: Colorado River Reservoir Operations: Development of Management Strategies for Lakes Powell and Mead Under Low Reservoir Conditions

In regard to your Federal Register Notice requesting public comment on the development of management strategies for Lakes Powell and Mead on the Colorado River under low reservoir conditions, including anticipated management strategies for shortage guidelines for the Lower Colorado River Basin, the Fish and Wildlife Service (FWS) offers. the following comments to support development of your strategies. The FWS understands that water levels in Lakes Mead and Powell are determined by releases to Lower Basin States, flood control, equalization of Lakes Mead and Powell under 602(a) of the Colorado River Basin Project Act, surplus declarations under the Interim Surplus Guidelines, and other Bureau of Reclamation (Reclamation) programs under the Law of the River.

**Glen Canyon Dam and Its Effects to the Colorado River within the Glen Canyon Dam Adaptive Management Program (AMP)**

Reclamation completed Section 7 consultation on the operation of Glen Canyon Dam (January 7, 1995) for operations outlined in the 1995 Record of Decision (ROD) on the operation of Glen Canyon Dam and associated Final Environmental Impact Statement (EIS). Since that time, minor reinitiated consultations have taken place. Most recently, Reclamation completed consultation for a controlled flood in November 2004. Consideration of the effects of possible future shortage criteria has not been previously addressed.

The completed consultations primarily concern the pattern of daily and monthly releases. All have specified a minimum annual release volume of 8.23 million acre-feet (MAF). Additional consultation may be necessary if Reclamation pursues management strategies that would necessitate monthly or daily release patterns that differ from those that are specified in the ROD,

or should strategies be adopted that would result in a reduction in the minimum annual release volume of 8.23 MAF.

In 1998, Reclamation began the process of environmental compliance for construction of a temperature control device (TCD) at Glen Canyon Dam to warm release temperatures of water to improve conditions for native fish survival, including the endangered humpback chub (*Gila cypha*). The FWS considers a TCD as supportive of humpback chub recovery. In 2004, Reclamation reinitiated scoping on this project. In the absence of a TCD for water release warming purposes, the only way to provide warmer water in the mainstem of the Colorado River in the Grand Canyon area would be through releases during times of low reservoir levels in Lake Powell. Given this as a potential limitation, the FWS recommends that Reclamation maximize the conservation benefit of warmer release water temperatures when warmer water is available by utilizing stable flow regimes, such as the Seasonally Adjusted Steady Flow water management, as identified in the EIS, and mechanical removal of nonnative fishes. 2

Also, the pattern of annual releases may become increasingly important to humpback chub conservation. Annual release patterns determine reservoir levels and, in the absence of a TCD, reservoir levels are another way to control the water temperatures of Glen Canyon Dam releases. Thus, we recommend that Reclamation consider the effect of annual releases from Glen Canyon Dam on humpback chub in the development of management strategies for the Colorado River under low reservoir conditions. 3

### **Lower Colorado River Multi-Species Conservation Program (LCR MSCP) and Associated Effects**

In the *LCR MSCP*, Reclamation included as a covered action a modeling assumption that would serve to address future shortage criteria. That is, shortages would be imposed to keep Lake Mead at or above elevation 1050 feet mean sea level (msl) approximately 80 percent (%) of the time over the next 50 years, and additional shortage would be imposed if needed to protect elevation 950 feet msl 100% of the time. As long as any future shortage criteria based on protection of Lake Mead elevations are not lower than these elevations or at least 80% or 100% effective and within the analysis of effects contained in the *LCR MSCP*, the FWS believes that Endangered Species Act (ESA) coverage would likely be met through the *LCR MSCP*. However, because there may be new information available at the time of such a review, additional consultation may be required. 4

The *LCR MSCP* analysis also considered the reduction in flows below Hoover Dam that would result under the shortage modeling assumption. Those reductions are included in the 1.574 MAF in changes in points of diversion covered under the *LCR MSCP*. As long as the shortages do not result in a reduction in flow greater than the 1.574 MAF, the reductions in flows are covered by the *LCR MSCP* and additional consultation would not be required. Again, the development of new information prior to the time of the review may result in a need for additional consultation. 5

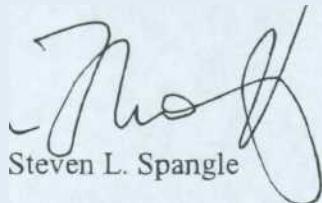
With implementation of the *LCR MSCP*, the effects of shortage criteria to Lake Mead and the lower Colorado River have been addressed by the conservation provided. However, the FWS recommends that options for future management of Lake Mead include consideration of changes

to lake levels to benefit the endangered razorback sucker (*Xyrauchen texanus*). In the biological opinion for the Interim Surplus Guidelines, management options are identified to raise water levels to benefit spawning and recruitment of razorback suckers. The FWS believes that consideration of these types of options will require coordination with management of Lake Powell and the Colorado River through the Grand Canyon to achieve goals and minimize adverse effects to the larger system. Timing of flows into Lake Mead may also allow for riparian management at its delta to provide habitat for the endangered southwestern willow flycatcher (*Empidonax traillii extimus*) and other migratory bird species.

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In summary, these comments are intended to support Reclamation in this strategy development period. If the FWS can be of further assistance, please contact Sam Spiller (Lower Colorado River Coordinator) (602)841-5329, Glen Knowles (Glen Canyon Dam operations) at (602) 242-0210 (x233), Lesley Fitzpatrick (LCR MSCP compliance) (x 36), or me.



Steven L. Spangle

cc: Regional Director, Assistant Regional Directors (ES, FR, and MB/SP) and NWRS Chief (RC), Fish and Wildlife Service, Albuquerque, NM

W:\Sam Spiller\ColRiverReservoirOps LowFlow fwscomments.doc

## Duren, Sabre

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**From:** Norm\_Henderson@nps.gov  
**Sent:** Monday, August 22, 2005 4:02 PM  
**To:** strategies@lc.usbr.gov; strategies@uc.usbr.gov  
**Subject:** NPS comments on lake management strategies

**Attachments:** Final mgt strategies cover memo.pdf; Shortage Criteria public comments72505.fnl.pdf

This is a duplicate letter and comments to F.003 (NPS)



Final mgt strategies Shortage Criteria  
cover mem... public comme...

Regional Director, Lower Colorado and Upper Colorado regions:

Attached is the formal memorandum from both the Regional Director of both the Pacific West and Intermountain regions transmitting our prepared testimony presented at the public meetings on July 26, 2005 and July 28, 2005 in Henderson, Nevada and Salt Lake City, Utah, respectively, as our official comments regarding the development of management strategies for Lake Powell and Lake Mead, including Lower Basin shortage guidelines under low reservoir conditions.

(See attached file: Final mgt strategies cover memo.pdf) (See attached file:  
Shortage Criteria public comments72505.fnl.pdf)

If you have any questions regarding this submittal, please contact me.

\*\*\*\*\*  
\*\*\*\*\*

Norm Henderson & Colorado River Coordinator & 324 South State Street, Suite  
200 & Box 30

Salt Lake City, UT 84111 & 801-741-1012 Ext. 102 Voice & 801-741-1102 Fax &  
mobile 801-550-4461

F.005



# United States Department of the Interior

NATIONAL PARK SERVICE  
INTERMOUNTAIN REGION  
PACIFIC WEST REGION



August 19, 2005

## Memorandum

To: Regional Director, Bureau of Reclamation, Upper Colorado Region  
Regional Director, Bureau of Reclamation, Lower Colorado Region

From: Regional Director, National Park Service, Intermountain Region  
Regional Director, National Park Service, Pacific West Region

Subject: Comments on the proposed development of management strategies for Lake Powell and Lake Mead, including Lower Basin Shortage Guidelines, under low reservoir conditions

Attached are the comments presented by the National Park Service to the Bureau of Reclamation at public hearings in Salt Lake City, Utah and Henderson, Nevada on July 28, 2005 and July 26, 2005, regarding the process of developing low water management strategies, including shortage guidelines. We hope these comments will be useful when developing a lake management strategy that addresses the diversity of water use requirements. We look forward to working with the Bureau of Reclamation and other stakeholders in developing this strategy. As you are aware, drought induced low-water conditions have affected recreational use of the two reservoirs and caused direct financial hardships to concessioners and local businesses, as well as the National Park Service. This experience has taught us that low-water recreational impacts occur as the reservoirs drop below certain critical water levels. Understanding these critical levels will be useful in strategy development.

Given that management strategies that benefit one reservoir may have negative effects on the other, it is important that NPS input on the matter be coordinated. To this end, we have designated Norm Henderson (the NPS Colorado River Coordinator) as the lead staff individual for the subject process (telephone 801-741-1012 ext 102). Please contact him if you have any questions about our coordinated input or NPS interests in general regarding the development of an integrated management approach for the two reservoirs.

8/17/05

\_\_\_\_\_  
Michael Snyder                  Date  
Regional Director, Intermountain Region

  
\_\_\_\_\_  
Jonathan B. Jarvis                  Date  
Regional Director, Pacific West Region

**Management Strategies for Lake Powell and Lake Mead  
Under Low Water Conditions  
Comments by the National Park Service**

**July 26, 2005 – Henderson, NV  
Gary Warshefski, Deputy Superintendent, Lake Mead NRA**

**July 28, 2005 – Salt Lake City, UT  
Kitty L. Roberts, Superintendent Glen Canyon National Recreation Area**

The Secretary of the Interior directed the Bureau of Reclamation to develop additional Colorado River management strategies to address operations of Lake Powell and Lake Mead under low reservoir conditions. The National Park Service is charged by Congress to manage the resources as well as recreational use on these reservoirs and the intervening reach of the river in Grand Canyon National Park and Glen Canyon National Recreation Area under the National Park Service Organic Act and the enabling legislation of the three units. The recreational opportunities provided by these park service units are substantial (14 million visitors annually) and result in direct and indirect economic benefits to the local and regional economies (estimated at over \$1 billion annually). In addition, nationally significant natural and cultural resources are associated with the reservoirs and the main stem Colorado River. The Bureau of Reclamation and the National Park Service enjoy a close working relationship which ensures that the requirements of both agencies are met.

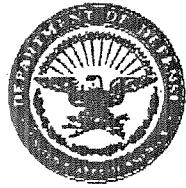
Over the past five years prolonged drought conditions within the Colorado River watershed reduced overall storage volumes to 33 and 54 percent for lakes Powell and Mead, respectively, which has negatively affected recreational use and likely caused significant changes to the local and regional economies. The drought has caused direct economic hardship to NPS concessioners and hundreds of local businesses operating under NPS commercial use licenses that provide recreational services to the public at Lake Mead and Glen Canyon NRA's. The National Park Service, likewise has been substantially financially impacted in order to implement numerous emergency measures to help cope with the effects of drought on lake recreation. These measures have included: closing or extending launch ramps; moving or adjusting courtesy docks, sewage disposal facilities, navigational aids, and marina services (water, sewer, power and gas lines) etc., with a total cost approaching \$20 million over the past three years. The concessioners experienced reduced profits mostly due to increased expenditures to move and/or adjust marinas themselves. The specific economic ramifications to the local and regional economies caused by reduced recreational use are unknown but are thought to be significant. If drought conditions were to persist and water levels approached certain critical levels, boating access to the lakes may have to be discontinued altogether.

The National Park Service recognizes that the reservoirs were constructed to operate within a broad operational range (lake levels) and that their purposes included storage of water for future uses, providing for reclamation of arid and semiarid lands, providing for flood

control, recreation and power generation. However, when considering reservoir management strategies to provide water use in times of extended drought, we offer the following considerations in order to minimize impacts to lake recreation as well as other NPS resources:

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4. Evaluate the impacts of alternative shortage strategies on the local and regional economies (including the Hualapai and Navajo tribes) along the Colorado River.
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6. Evaluate the impacts of shortage strategies on other NPS units along the Colorado River (upstream of Lake Powell and downstream of Lake Mead).

We look forward to working with the BOR over the coming months to develop management strategies for the two reservoirs when shortage conditions exist. We also look forward to assisting the BOR in evaluating the impacts of any proposed strategies on the resources found within the NPS units along the entire Colorado River corridor.



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 99TH AIR BASE WING (ACC)  
NELLIS AIR FORCE BASE, NEVADA

AUG 31 2005

Colonel Walter D. Givhan  
Commander  
4430 Grissom Avenue, Suite 101  
Nellis AFB, NV 89191-7007

Mr Robert W. Johnson, Regional Director  
Bureau of Reclamation, Lower Colorado Region  
Attn: BCOO-1000  
P. O. Box 61470  
Boulder City, NV 89006-1470

Dear Mr Johnson

In response to the Bureau of Reclamation's Notice to Solicit Comments (*Colorado River Reservoir Operations: Development of Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions*, 70 Fed. Reg. 34,794 (15 June 2005)), I hereby submit comments on behalf of the United States Air Force, and more specifically, Nellis Air Force Base.

Both the United States Air Force and Nellis Air Force Base officials laud and support your efforts to develop strategies for protecting water resources within the Colorado River Basin. We look forward to working with you in developing strategies to conserve this valuable natural resource.

We support strategies that would identify and establish critical water levels at Lake Powell and at Lake Mead; establish criteria for water delivery during periods of water shortage; provide for equitable sharing of shortages between parties to international treaties; protect Federal Reserved Water Rights; protect federal mandates, such as the Department of Defense mission to protect this nation from hostile activity and to preserve our national sovereignty.

We look forward to working with the Bureau of Reclamation during the coming months in developing and evaluating managerial strategies for low water conditions at both Hoover and Glen Canyon Dams.

Sincerely

Walter D. Givhan  
Colonel, USAF

## Kucera, Cindy

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**From:** Fujii.Laura@epamail.epa.gov  
**Sent:** Wednesday, November 30, 2005 4:55 PM  
**To:** strategies@lc.usbr.gov  
**Cc:** strategies@uc.usbr.gov  
**Subject:** US EPA scoping comments for Development of Lower Basin Shortage Guidelines

**Attachments:** LCRshortageNOI.pdf



LCRshortageNOI.pdf  
(95 KB)

Dear Bureau of Reclamation:

Below is the pdf file of our scoping comments for the Development of Lower Basin Shortage Guidelines and Coordinated Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions.

A copy has been faxed and mailed to Robert W. Johnson, Regional Director, Lower Colorado Region.

(See attached file: LCRshortageNOI.pdf) EPA scoping comments for Lower Basin Shortage Guidelines

We appreciate the opportunity to provide comments and look forward to continued participation in this process as more information becomes available. Please send three copies of the Draft Environmental Impact Statement to the address below (mail code: CED-2), when it is released for public review. If you have any questions, please contact me at the telephone number or e-mail address below.

Sincerely,

Laura Fujii  
Region 9 US Environmental Protection Agency Environmental Review Office, CED-2  
Communities and Ecosystems Division  
75 Hawthorne St., San Francisco, CA. USA 94105  
phone: 415-972-3852  
fax: 415-947-8026  
fujii.laura@epa.gov

November 30, 2005

Robert W. Johnson  
Regional Director  
Lower Colorado Region  
Bureau of Reclamation  
Attn: BC00-1000  
P.O. Box 61470  
Boulder City, NV 89006-1470

Subject: Scoping Comments for Lower Basin Shortage Guidelines and Coordinated Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions, Lower Colorado River Basin

The U.S. Environmental Protection Agency (EPA) has reviewed the Federal Register Notice published September 30, 2005, requesting comments on the Bureau of Reclamation's (Reclamation) decision to prepare a Draft Environmental Impact Statement for the above action. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA supports the development of shortage guidelines which will provide specific criteria for reductions in annual water deliveries during low reservoir conditions. The beneficial uses of the Lower Colorado River are diverse, providing vital environmental, economic, and public health benefits for Arizona, California and Nevada (Lower Basin States). Unpredictable large disruptions in water deliveries or sudden changes in Lake Mead and Lake Powell operations could have significant adverse impacts on these beneficial uses.

We recommend the shortage guidelines be based upon the principles of: 1) collaboration, partnerships, and a transparent public involvement process; 2) protection of the environment, human health, and beneficial uses of the Colorado River; 3) minimization of involuntary reductions; and 4) mitigation for evenly-shared shortages. A goal of the shortage guidelines should be small predictable reductions in annual water use versus large involuntary disruptions in water supply service and Colorado River flows.

To minimize adverse impacts to the environment and beneficial uses, we urge Reclamation to consider the following proposals during development of the shortage guidelines:

- Expand the ongoing efforts in the Lower Basin States to improve water quality, maximize water conservation, and enhance water use efficiencies. These improvement programs should be pursued on a continuous basis regardless of hydrological conditions.
- Focus on voluntary reductions prior to implementing involuntary shortages.
- Design shortage criteria that provide reductions based upon clear predictable triggers.
- Develop and commit to a detailed monitoring and accounting system.
- Provide sufficient flexibility to accommodate future shifts in water policy and long-term water resource planning.

The draft environmental impact statement (DEIS) would evaluate the direct, indirect, and cumulative impacts of the proposed shortage guidelines. Special attention should be given to third party impacts, including transboundary impacts, and beneficial uses that have no water rights and who may be most vulnerable to drought and a reduction in water use or Colorado River flows (e.g., fish, water quality, recreation, Colorado River Delta).

We appreciate the opportunity to provide comments on the preparation of the DEIS. We look forward to continued participation in this process as more information becomes available. When the DEIS is released for public review, please send three copies to the address above (mail code: CED-2). If you have any questions, please contact me or Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,  
/s/

Duane James, Manager  
Environmental Review Office  
Communities and Ecosystems Division

Enclosure:  
Detailed Comments  
Tribal Consultation Executive Order

cc: Jayne Harkins, Assistant Regional Director, Lower Colorado Region, BOR  
Rick L. Gold, Regional Director, Upper Colorado Region, BOR  
California State Water Resources Control Board  
US Fish and Wildlife Service, Sacramento, Phoenix Main, Southern Nevada  
Offices  
Regional Tribal Operations Committee

**EPA DETAILED SCOPING COMMENTS LOWER BASIN SHORTAGE GUIDELINES AND COORDINATED MANAGEMENT STRATEGIES FOR LAKE POWELL AND LAKE MEAD UNDER LOW RESERVOIR CONDITIONS, LOWER COLORADO RIVER BASIN, CA, AZ, NV, NOVEMBER 30, 2005**

**Conservation and Water Use Efficiency**

Constant determined efforts to maximize water conservation and water use efficiencies are essential in assuring a long-term, sustainable balance between available water supplies, demand and ecosystem and public health. These efforts are even more urgent given the projected growth in the Lower Colorado River Basin and the adverse effects of the multi-year drought.

***Recommendation:***

We urge the Bureau of Reclamation (Reclamation) to work with all stakeholders in implementing all feasible and available tools to maximize water conservation and water use efficiencies. Maintaining water quality and reducing water pollution should be major goals because they extend the “useful life” of water supplies and reduce treatment costs.

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Possible water conservation and use efficiency tools include water transfers and exchanges, pricing, irrigation efficiencies, operational flexibilities, market-based incentives, water acquisition, conjunctive use, voluntary temporary or permanent land fallowing, pooling water and making it available on the basis of specific allocation criteria, and wastewater reclamation and recycling. Supporting sustainable water use and compatible “multiple benefits” of water would also extend the beneficial use of limited water resources.

**Environmental Impact Analysis**

The Lower Colorado River is a vital part of the water supplies of Arizona, California, Nevada, and Mexico. Recreation, hydropower generation, and habitat for threatened and endangered species are also key beneficial uses. In addition, the river is a significant part of the historical and cultural resources of the Lower Colorado River region.

***Recommendation:***

The draft environmental impact statement (DEIS) should evaluate the direct, indirect, and cumulative impacts of the proposed shortage guidelines. Special attention should be given to third party impacts, including transboundary impacts, and beneficial uses that have no water rights and who may be most vulnerable to drought and a reduction in water use or Colorado River flows (e.g., fish, water quality, recreation, Colorado River Delta). The analysis should include an evaluation of the potential effects on the following issues:

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## Water Quality

### *Lake Mead Water Quality*

- Effects on the Southern Nevada Water Authority's drinking water supply and its intakes | 3
- Effects on dilution of perchlorate entering Lake Mead from Henderson, Nevada via Las Vegas Wash | 4
- Effects on the timing and rate of lake turnover | 5
- Effects on lake water quality | 6

### *Lake Powell Water Quality*

- Effects on the timing and rate of lake turnover | 7
- Effects on lake water quality | 8

### *Downstream Impacts*

- Effects on salinity, mercury, sediment, radioactive substances and other constituents of Lower Colorado River water | 9
- Effects on general water quality and end uses of water going to Arizona, California, Nevada, and Mexico | 10
- Effects on in-stream water quality and water reaching the Colorado River Delta, including water temperatures and flow fluctuations | 11

### Other issues

- Effects on water rights, including Tribal water rights | 12
- Effects on water supply diversion quantities and schedules | 13
- Effects on recreation, such as rafting in the Grand Canyon, fishing, and visual effects of reservoir draw-downs | 14
- Effects on sediment movement and impacts on beach replenishment in the Grand Canyon | 15
- Effects on hydroelectric generation and Lake Mead and Lake Powell equalization requirements | 16
- Effects on flood control | 17
- The effects on fisheries, threatened and endangered species, and the Lower Colorado River Multiple Species Habitat Conservation Strategy | 18
- Effects on Treaty obligations with Tribes and Mexico, Biological Opinions, discharge and diversion permits, and other agreements, such as those to restore the Colorado River Delta. | 19
- Effects on groundwater from potential transition from surface water use to groundwater use | 20

## Monitoring and Accounting

Monitoring and accounting of shortages and management actions should be key components of the shortage guidelines.

***Recommendation:***

Include in the DEIS a description of the monitoring and accounting system that will be implemented before, during, and after shortages are implemented.

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**Consultation and Coordination with Tribal Governments**

Many Tribes may be affected by shortages and related operational actions in the Lower Colorado River basin. These Tribes include five tribes on the Lower Colorado River and six tribes that use or may be affected by shortages imposed on the Central Arizona Project. These Tribes also have a keen interest in water allocation, water use, and water quality within the Lower Colorado River basin because it is their primary water source and the river has a significant role in their cultural heritage. For instance, the Colorado River Tribes have outstanding Colorado River water rights and the Cocopah and Quachan Tribal groups wish to restore their ancestral lands in the Colorado River Delta.

***Recommendation:***

We recommend that all potentially affected Tribes be consulted on a government-to-government basis pursuant to the Executive Order on Consultation and Coordination with Indian Tribal Governments (enclosed).

22

**Lower Colorado River Context**

It is well known that Colorado River water issues are complex with many diverse users. To ensure full disclosure and understanding of potential impacts and implications of the shortage guidelines, we recommend the DEIS include an introductory section providing an overview of current water allocations, uses, and water management in the Lower Colorado River basin.

***Recommendation:***

We recommend the DEIS include a comprehensive overview of water allocation and uses in the Lower Colorado River basin. An overview of water supply allocation, constraints, environmental and socioeconomic issues and how they influence management of the Lower Colorado River will help minimize confusion, clarify issues, and ensure well-informed decision making.

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## THE WHITE HOUSE

## Office of the Press Secretary

For Immediate Release  
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November 6, 200

## EXECUTIVE ORDER

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CONSULTATION AND COORDINATION  
WITH INDIAN TRIBAL GOVERNMENTS

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. Fundamental Principles. In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. Policymaking Criteria. In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and

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any alternatives that would limit the scope of Federal  
standards or otherwise preserve the prerogatives and authorit  
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of Indian tribes.

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Sec. 4. Special Requirements for Legislative Proposals. Agencies  
shall not submit to the Congress legislation that would be inconsistent  
with the policymaking criteria in Section 3.

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Sec. 5. Consultation. (a) Each agency shall have an accountable  
process to ensure meaningful and timely input by tribal officials in th  
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development of regulatory policies that have tribal implications.  
Within 30 days after the effective date of this order, the head of each  
agency shall designate an official with principal responsibility for th  
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agency's implementation of this order. Within 60 days of the effective  
date of this order, the designated official shall submit to the Office  
of Management and Budget (OMB) a description of the agency's  
consultation process.

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(b) To the extent practicable and permitted by law, no agency shall  
promulgate any regulation that has tribal implications, that imposes  
substantial direct compliance costs on Indian tribal governments, and  
that is not required by statute, unless:

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(1) funds necessary to pay the direct costs incurred by the India  
tribal government or the tribe in complying with the  
regulation are provided by the Federal Government; or
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(2) the agency, prior to the formal promulgation of the regulation  
  
(A) consulted with tribal officials early in the process of  
developing the proposed regulation;
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(B) in a separately identified portion of the preamble to th  
regulation as it is to be issued in the Federal Register  
provides to the Director of OMB a tribal summary impact  
statement, which consists of a description of the extent  
of the agency's prior consultation with tribal officials  
a summary of the nature of their concerns and the  
agency's position supporting the need to issue the  
regulation, and a statement of the extent to which the  
concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall

1 promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

#### Sec. 6. Increasing Flexibility for Indian Tribal Waivers.

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. Accountability.

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. Independent Agencies. Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. General Provisions. (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,  
November 6, 2000.

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