

Kucera, Cindy

From: Bob Lynch [rslynch@rslynchaty.com]
Sent: Wednesday, November 30, 2005 1:52 PM
To: strategies@lc.usbr.gov; strategies@uc.usbr.gov
Subject: Scoping of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) in developing possible Lower Basin Shortage Guidelines and possible Coordinated Management Strategies for Lake Powell and Lake Mead
Attachments: ShortCrit113005.doc

Please see attached.

Robert S. Lynch, Esq.
Robert S. Lynch & Associates
340 E. Palm Lane, Suite 140
Phoenix, Arizona 85004-4603
Phone: 602-254-5908
Fax: 602-257-9542
E-mail: rslynch@rslynchaty.com

L-2007

12/6/2005

IRRIGATION & ELECTRICAL DISTRICTS ASSOCIATION OF ARIZONA

W.A. DUNN
CHAIRMAN OF THE BOARD

R. GALE PEARCE
PRESIDENT

R.D. JUSTICE
VICE-PRESIDENT

SUITE 140
340 E. PALM LANE
PHOENIX, ARIZONA 85004-4603
(602) 254-5908
Fax (602) 257-9542
E-mail: rslynch@rslynchaty.com

CHARLES W. SLOCUM
SECRETARY-TREASURER

ROBERT S. LYNCH
ASSISTANT SECRETARY-TREASURER

E-MAILED AND MAILED

November 30, 2005

Mr. Robert W. Johnson
Regional Director
Lower Colorado River Region
U.S. Bureau of Reclamation
Attn: BCOO-1000
P.O. Box 61470
Boulder City, Nevada 89006-1470
E-mail: strategies@lc.usbr.gov

Mr. Rick L. Gold
Regional Director
Upper Colorado River Region
U.S. Bureau of Reclamation
Attn: UC-402
125 South State Street, Room 6107
Salt Lake City, Utah 84318-1147
E-mail: strategies@uc.usbr.gov

Re: Scoping of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) in developing possible Lower Basin Shortage Guidelines and possible Coordinated Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions, 70 Fed.Reg. 57322-3 (September 30, 2005)

Gentlemen:

The Irrigation & Electrical Districts' Association of Arizona (IEDA) is submitting these comments supplementary to the comments previously submitted by letter of August 31, 2005 on this subject and the oral remarks that I made the evening of November 3, 2005 at your public meeting at the Arizona Department of Water Resources in Phoenix. Please consider those comments incorporated by reference in the following comments as to the scope of alternatives that need to be addressed in the upcoming EIS. The purpose of our comments is to discuss our views about the range of alternatives that need to be incorporated into the EIS analysis. As you know, NEPA requires that the EIS discuss all reasonable alternatives and analyze their environmental impacts in order to have a proper advisory document to place before the decision-maker, here the Secretary of the Interior.

1

L-2007

First, the Federal Register notice begins with the assumption that an EIS is required for this exercise and we heartily agree. Over 20 million people rely on the Lower Colorado River for a water supply and the hydropower generated at Hoover and Glen Canyon Dams is an essential element of the power supply of the Southwest and the Colorado River Basin. Balancing water and electric needs against environmental requirements in this context is clearly a major federal action significantly affecting the quality of the human environment.

2

Second, we will not comment on the desirability of any of these alternatives or what a preferred alternative, if any, should contain in the way of elements. Rather, we wish to focus on the task of articulating “all” reasonable alternatives in order to create an adequate EIS.

On this second point, we wish to express our concern that the document must address all the alternatives that have been suggested and elements of alternatives that have been suggested in order to pass muster under NEPA. Some of those elements will be elements we do not support. For instance, Peter Culp of the Sonoran Institute mentioned in his remarks on November 3 that the Secretary should be crafting long-term criteria. It is our understanding that the Basin States do not support that approach but rather support establishing interim shortage criteria. We have already agreed in writing with that position. Nevertheless, NEPA obliges you to either include that element in an alternative for environmental analysis or to explain why such an element will not be included in any of the alternatives analyzed in detail. Likewise, Mr. Culp’s suggestion of market-based strategies is not one we can support. Here again, it either must be included in one or more alternatives for detailed analysis or the reason for not doing so must be laid out. We believe that there are too many moving parts to Lower Colorado River operations right now, including those that affect Mexico, in order to establish any long-term shortage criteria that could possibly make any sense. Moreover, given the number of decisions that we all face on the Lower Colorado River in the future, there is no way that any such criteria could go very long without major overall. Likewise, market-based management of the Lower Colorado River would require significant change to the Law of the River, change that would be opposed in many quarters and is not likely to be successful. Observations such as ours may be worth considering in deciding whether these elements should be given detailed environmental analysis. Our message simply is that they cannot be ignored.

3

4

5

Likewise, there has been significant discussion over whether the minimum release criterion of the Long-Range Operating Criteria (8.23 maf) should be lowered permanently or temporarily or ignored permanently or temporarily. While we do not at all favor opening the Pandora’s box that is the Long-Range Operating Criteria, this issue also must be evaluated.

6

Other matters that have been suggested already by various comments and are likely to be included in further comments include altering 602(a) storage parameters, alternative outcomes that can result from negotiations with Mexico over shortage sharing, alternative outcomes for the future of the Yuma Desalting Plant and proposed Lower Basin offstream storage, possible augmentation of Colorado River water supplies pursuant to the 1968 Act, shortage frequency

7

8

9

10

11

management, and the possible role of the Secretary in resolving issues related to shortage sharing among Priority 4 water users. 12

Another array of alternatives very important to our members is the question of whether a minimum power pool will be protected in these shortage criteria, either for Lake Powell or Lake Mead. We have reviewed Herb Guenther's letter to you of November 28, 2005 forwarding the comments of the Arizona Department of Water Resources. We support those comments. Whether we support them or not, they articulate elements that must be considered in one or more reasonable alternatives in the EIS. We believe that Director Guenther's comments fall short under NEPA in one very significant respect, however.

The Arizona Power Authority has already commented on the need for protecting minimum power pool at Lake Mead or analyzing the impacts of not doing so and what that means for the Power Authority and its customers as well as the other Hoover power customers. We have joined in that comment. For that reason, we believe that you must do studies for your alternatives analysis that protect minimum power pool at Lake Mead in combination with protecting it at Lake Powell, studies that do not protect minimum power pool at either, and studies that protect minimum power pool at Lake Mead but not at Lake Powell. It is our understanding that current studies protect minimum power pool at Lake Powell but not at Lake Mead, so that fourth combination has already been studied. Without such analyses, we believe the ultimate product, the EIS, will be subject to challenge. 13

Along the way, you will need to fact the legal issues that arise from the supposition that minimum power pool elevations at either lake will be unprotected, both as to the existing statutory mandates of the acts that govern their operation and the contracts that exist for the delivery of resources from those Reclamation facilities. In studying the minimum release criterion in the Long Range Operating Criteria, you may also have to face the knotty legal issue about just exactly what those criteria are. Since they have existed, relatively untouched, for 35 years, the fluidity of their status (no pun intended) may not be the same as if they had been announced by the Secretary last year. 14

Finally, your baseline, i.e., your no action alternative, must articulate current conditions and the current status quo vis-à-vis dam operations at Glen Canyon and Hoover Dams as well as operational constraints at both facilities that are currently being employed. The no action alternative must also be premised on the current Law of the River. To the extent that the Secretary believes she has authority to declare shortages without shortage criteria, that needs to be included. To the extent that the Secretary believes that she has the legal right currently to ignore or fail to implement an element of the current Long Range Operating Criteria, that also needs to be included as part of the baseline and no action alternative. Additionally, there are other matters that will be happening within the area covered by the shortage criteria that are not within the four corners of that criteria as contemplated. These include the development of the Multi-Species Conservation Plan and its impacts, the ongoing litigation over water supply in the Gunnison River, and other matters that are ongoing within the area of study but not part of this 15 16 17

Mr. Robert W. Johnson
Mr. Rick L. Gold
November 30, 2005
Page 4

administrative exercise.

This is no simple task and not one that would evoke envy in most quarters. We wish to continue to participate with you in this process and to be of whatever assistance we can in seeing to it that the EIS that is produced is “adequate” under NEPA, regardless of whether the ultimate decision brings peace in our times.

Sincerely,

/s/ Robert S. Lynch

Robert S. Lynch
Counsel and Assistant
Secretary/Treasurer

RSL:psr
cc: IEDA Members



CREDA
Colorado River Energy Distributors Association

ARIZONA
Arizona Municipal Power Users Association

Arizona Power Authority

Arizona Power Pooling Association

Irrigation and Electrical Districts
Association

Navajo Tribal Utility Authority
(also New Mexico, Utah)

Salt River Project

COLORADO
Colorado Springs Utilities

Intermountain Rural Electric Association

Platte River Power Authority

Tri-State Generation & Transmission
Association, Inc.
(also Nebraska, Wyoming, New Mexico)

Yampa Valley Electric
Association, Inc.

NEVADA
Colorado River Commission
of Nevada

Silver State Power Association

NEW MEXICO
Farmington Electric Utility System

Los Alamos County

City of Truth or Consequences

UTAH
City of Provo

City of St. George

Strawberry Electric Service District

Utah Associated Municipal Power Systems

Utah Municipal Power Agency

WYOMING
Wyoming Municipal Power Agency

Leslie James
Executive Director
CREDA
4625 S. Wendler Drive, Suite 111
Tempe, Arizona 85282

Phone: 602-748-1344
Fax: 602-748-1345
Cellular: 602-469-4046
Email: creda@qwest.net
Website: www.creda.org

November 30, 2005

Regional Director
Bureau of Reclamation
Lower Colorado Region
Attn: BCOO1000 email: strategies@lc.usbr.gov

Regional Director
Bureau of Reclamation
Upper Colorado Region
Attn: UC-402 email: strategies@uc.usbr.gov

RE: Colorado River Reservoir Operations: Development of Lower Basin Shortage Guidelines and Coordinated Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions – Notice of Intent to prepare an environmental impact statement (EIS) and notice to solicit comments and hold public scoping meetings... (70 FRN No. 189 at 57322, September 30, 2005)

Gentlemen:

Following are comments of the Colorado River Energy Distributors Association (CREDA) in response to the above referenced Notice.

CREDA submitted written comments, including a detailed description of CREDA membership and interest in this process on August 29, 2005. CREDA representatives also provided verbal comments at Reclamation's public comment forums held on November 1, 2, 3 and 8, 2005. At those forums, Reclamation indicated it is not necessary to reiterate such verbal comments in written format. Accordingly, CREDA will not reiterate our previous written comments or our verbal comments herein, but would request that those comments and recommendations be included in the record and be given consideration in the current process.

Thank you for your consideration. We are available at any time to discuss these issues with you.

Sincerely,

/s/ Leslie James

Leslie James
Executive Director

Cc: CREDA Board
John Keys, USBR
Rick Gold, USBR
Mike Hacskeylo, WAPA

November 30, 2005

Mr. Robert W. Johnson
Regional Director, LC-1000
Lower Colorado Region
Bureau of Reclamation
Department of the Interior
P.O. Box 61470
Boulder City, NV 89006-1470

Reference: Interior's Low Reservoir Management Strategies - Colorado River

Dear Mr. Johnson:

The Arizona Power Authority (Authority) submits the following comments in response to the Secretary of the Interior's direction to the Bureau of Reclamation (Reclamation) found at 70 Fed. Reg 57322; Reclamation's **Notice to Solicit Comments on Colorado River Operations: Development of Lower Basin Shortage Guidelines and Coordinated Management Strategies for Lake Powell and Lake Mead under Low Reservoir Conditions**,

The Authority is a body corporate and politic of the State of Arizona authorized under Arizona Revised Statutes for the express purpose of, among others, receiving and administering hydroelectric power produced from the main stem of the Colorado River.

In developing both the draft Environmental Impact Study(ies) (EIS) and alternatives to be analyzed therein, the public power users in Arizona that receive hydropower generation from Hoover Dam via water from Lake Mead encourage Reclamation and the Secretary to note the following: The 1928 Boulder Canyon Project Act and the 1984 Hoover Power Plant Act, as amended or supplemented, and the electric service contracts thereto. For example, the Authority has entered into two pertinent contracts. The first contract, between the Authority and Reclamation (Contract No. 7-07-30-P1019 dated January 27, 1987) provided for the Authority to contribute \$57,178,466 in "up-front" funding for the rewinding and uprating of the generating units at Hoover Dam. The second, entered into by the Authority with the Department of Energy, Western Area Power Administration (Western) and Reclamation (Contract No. DE-MS65-

86WP39574, dated January 1, 1987), provides for the purchase of hydroelectric power from the Boulder Canyon Project's Hoover Dam for the period 1987 to 2017. For Reclamation to join Western in signing an electric service contract was an exceptional event that occurred only as part of an arrangement in which the Hoover Schedule B contractors provided "up-front" funding for the rewinding and uprating of the Hoover generating units. Reclamation was, therefore, willing to provide its contractual commitment that the power would be generated in accordance with the capacity and energy entitlements contracted for by the Hoover power contractors with the limited exceptions set forth in section 5.1.1.1 and 5.1.1.2 of the contract. These provisions state:

"Subject to the statutory requirement that Hoover Dam and Lake Mead shall be used: first, for river regulation, improvement of navigation and flood control; second, for irrigation and domestic uses and satisfaction of present perfected rights mentioned in section 6 of the Boulder Canyon Project Act; and third, for power, Reclamation shall release water, make available generating capacity, and generate energy, in such quantities, and at such times, as are necessary for the delivery of the capacity and energy to which Contractors are entitled.

Reclamation reserves the right to reschedule, temporarily discontinue, reduce, or increase the delivery of water for the generation of electrical energy at any time for the purpose of maintenance, repairs, or replacements, and for investigations and inspections necessary thereto, or to allow for changing reservoir and river conditions, or for changes in kilowatthours generation per acre-foot,"

Water users of Lake Mead provide less than 1% of the Boulder Canyon Projects' funding leaving the remaining 99 percent of the Project's financial security upon the fifteen power users. In the case of Arizona, that applies to one power customer, in Nevada it applies to two power customers. It seems logical that Reclamation and the Secretary should seriously consider the concerns and possible financial inequities to the power community in the modeling criteria and process such that the elevation of Lake Mead is maintained at or above the minimum power pool elevation.

1

Even though water for consumptive uses may have a higher priority than water utilized for power generation, it is essential that the EIS recognize and protect power production, not only to insure the availability of low-cost hydropower in the Upper and Lower Basins, but to provide the revenue necessary to maintain the water conveyance features of the Projects while protecting the power features that provide the economic security and financial integrity of the Projects.

2

Reduction in the amount of water stored in Lake Mead in turn reduces the head available for power production thereby reducing the amount of the power produced for the Hoover power contractors. Changes in the time of water releases can also have a negative impact on the value of the power produced. In either case, the value of the bargain for the Hoover power contractors is reduced. The Hoover power contractors recognized the variability of river hydrology when they contracted with Western and Reclamation. They recognized river flows may vary and

accept the risk of unpredictable river flows. **However, they did not accept the risk that a federal agency might reduce the benefit of their bargain by changes which the federal government chose to make in the operation of the river.** That was the assurance that Reclamation committed to in section 5.1.1 of each contractor's Electric Service Contract.

The Authority supports Reclamation's use of an open rule-making process in order to (a) assure that the potential benefits of improved river operations can be explored and (b) an optimum operating strategy can be implemented. In order to assure that any modification of the operating strategy does not deprive the Hoover power contractors of the benefit of the bargain that they, Western and Reclamation mutually committed to in 1987, the Authority requests that Reclamation adopt the following practices in developing management strategies for low reservoir conditions at Lake Powell and Lake Mead, and for shortage criteria for the Lower Colorado River Basin.

- For each operating strategy proposal, Reclamation should run sensitivity studies to determine the impact on Hoover power production. The results of those sensitivity studies should be made available to the Hoover power contractors with an explanation of any reduction in the amount of power that will be generated and any change in the timing of generation. 3
- Reclamation should propose methods to minimize and fully mitigate any adverse impacts on the amount and value of the power that the Hoover power contractors will receive. 4
- Reclamation should discuss the package of proposed changes and proposed mitigation with the Hoover power contractors prior to their adoption. 5

In evaluating the environmental impacts of any modification of river operations, the National Environmental Policy Act requires that the economic impacts of reducing power production or adversely impacting the value of the power generated by altering its timing be analyzed and considered. We, therefore, request that the process include such an analysis and consideration of the effect of any proposed change in river operation on the power generation at Hoover Dam.

The Authority appreciates this opportunity to offer its comments on this important process.

Respectfully submitted,

/s/ Joseph W. Mulholland

Joseph W. Mulholland
Executive Director



CITY OF
TUCSON

TUCSON WATER
DEPARTMENT

November 30, 2005

Robert Johnson, Regional Director
US Bureau of Reclamation
Lower Colorado Region (Attn: BCOO-1000)
PO Box 61470
Boulder City, NV 89006-1470

Dear Mr. Johnson:

The City of Tucson Water Department (Tucson Water) submits the following comments in response to the September 30, 2005 notice in the Federal Register (70 FR 57322) soliciting public comment on developing management strategies for Lake Powell and Lake Mead under low reservoir conditions, including lower basin shortage guidelines.

Tucson Water holds the largest Central Arizona Project (CAP) municipal and industrial subcontract in the state. This subcontract provides the only significant renewable water supply currently available to meet the needs of the nearly 680,000 people residing within the Tucson Water service area, both inside and outside the City of Tucson. Therefore, the management strategies being developed by the Bureau of Reclamation are of critical importance to the current and future economy of the entire Tucson metropolitan area.

Tucson Water is aware that the State of Arizona and others representing Arizona's municipal water providers also are providing comments on this matter. We fully concur with and support the comments submitted by the Arizona Department of Water Resources and the Arizona Municipal Water Users Association and, by reference, reiterate those parties' comments on behalf of this department.

We appreciate the opportunity to provide comment on this critical issue. Tucson Water will continue to work with the State of Arizona and the Bureau of Reclamation as we collectively pursue a management strategy that benefits both the Upper Division States and the Lower Division States within the Colorado River Basin.

Sincerely,

Marie S. Pearthree, Deputy Director

for David V. Modeer, Director
Tucson Water

Cc: Herb Guenther, Director, Arizona Department of Water Resources
Steven L. Olson, Executive Director, AMWUA



arizona municipal water users association

4041 north central avenue • suite 900 • phoenix, arizona 85012 • phone (602) 248-8482 • fax (602) 248-8423

November 30, 2005

Mr. Robert Johnson
Regional Director
U.S. Bureau of Reclamation
Lower Colorado Region (Attn: BCOO-1000)
P.O. Box 61470
Boulder City, Nevada 89006-1470

Dear Mr. Johnson:

In response to the September 30, 2005 notice in the Federal Register (70 FR 57322), the Arizona Municipal Water Users Association (AMWUA) presents these comments regarding management strategies for Lake Powell and Lake Mead under low reservoir conditions, including lower basin shortage guidelines. The municipal water systems owned and operated by the AMWUA member cities of Chandler, Glendale, Goodyear, Peoria, Phoenix, Mesa, Scottsdale, Tempe and the Town of Gilbert taken together are responsible for providing for the water needs of over 3 million people, 60 percent of the population of the State of Arizona, and the vibrant economy supporting this population. Each AMWUA member holds an M&I subcontract for Central Arizona Project (CAP) water, a vital component of its renewable supplies. Given that under the Law of the River, the CAP is the junior diverter in the lower basin, the management strategies being developed by the Bureau are of critical interest and importance to AMWUA. In fact, equity demands that the Bureau take special note of the desires of the CAP water users with respect to this issue.

Regardless of the nature of the final management strategy, it must comply with the "Law of the River" extant. Within this context, the following concepts must be addressed:

1. Operation of Lakes Powell and Mead must be consistent with the Law of the River, including the fact that operation for the generation of hydroelectricity is subordinate to operation for water supply purposes. Water users should not be subject to increased shortages for the benefit of hydroelectricity production. 1 2
2. The minimum objective release from Lake Powell to the lower basin must be at least 8.23 maf/yr. Lower basin shortage guidelines should expire no later than 2016, with the opportunity for review and revision preceding the expiration date. 3 4
3. It is AMWUA's understanding that the Bureau has been consulting with the seven basin states regarding conjunctive management of Lakes Powell and Mead. Any change in

upper basin deliveries must be consistent with the upper basin's delivery obligations to the lower basin and the upper basin's share of the Mexican obligation. If conjunctive management of Lakes Powell and Mead is the implemented strategy, then the time frame for this management strategy may need to be extended beyond 2016, with the opportunity for review and revision preceding the expiration date.

4. Through a public process established by the Arizona Department of Water Resources (DWR), the affected Colorado River water users in Arizona have tentatively decided on the following lower basin shortage volumes which should be evaluated by the Bureau. Shortages to the lower basin water users should be based on water level elevations at Lake Mead as follows:

400,000 af shortage at or below 1075 ft at Lake Mead
500,000 af shortage at or below 1050 ft at Lake Mead
600,000 af shortage below 1025 ft at Lake Mead

The final shortage guidelines must be flexible enough so that, after consultation by the Secretary of the Interior (Secretary) with the affected Arizona water users and DWR, any necessary reductions beyond 600,000 af are accomplished in the least damaging way. The guidelines also have to take into account that improved hydrologic conditions may warrant a lesser shortage volume than indicated by the Lake Mead water level elevation.

The DWR process also considered the management of shortages within Arizona among the Priority 4 water users located along the Colorado River mainstem and the CAP. AMWUA believes that the Secretary must apportion shortages among Priority 4 water users in a manner consistent with the Law of the River and their contracts. The Bureau's environmental impact statement should identify the impact on diversions by each Priority 4 water user under varying shortage conditions.

5. The affected Arizona water users and DWR will determine how to most efficiently manage shortages within Arizona.
6. The Bureau's evaluation of the management strategies and shortage guidelines must include consideration of operation of the Yuma Desalting Plant (YDP) as compared to the present situation where the YDP is not operating. The Secretary should not implement a management strategy that does not include operation of the YDP if the strategy will increase the probability of lower basin shortages with respect to severity, magnitude, duration, or frequency of occurrence.
7. Mexico and Nevada should share in any lower basin shortage.
8. Finally, the Secretary should implement the final management strategy through a record of decision after completion of the environmental impact statement by the Bureau.

We appreciate the opportunity to comment on this critical issue and look forward to continuing to work with the State of Arizona and the Bureau of Reclamation in the future with the intention of reaching a satisfactory conclusion for all affected parties.

Sincerely,

A handwritten signature in black ink that reads "Steven L. Olson". The signature is written in a cursive style with a large, prominent "S" and "O".

Steven L. Olson
Executive Director

c: Herbert R. Guenther, Director, Arizona Department of Water Resources

VCD:dsp
h:\Val\Colo R Mgt Strategies.doc

November 30, 2005

Robert Johnson, Regional Director
US Bureau of Reclamation
Lower Colorado Region (Attn: BCOO-1000)
PO Box 61470
Boulder City, NV 89006-1470

Dear Mr. Johnson,

In response to the September 30, 2005 notice in the Federal Register (70 **FR** 57322), the City of Mesa, Arizona (“Mesa”), submits these comments regarding management strategies for Lake Powell and Lake Mead under low reservoir conditions, including Lower Basin shortage guidelines.

Mesa, the third-largest city in Arizona, holds subcontracts for 36,388 acre-feet of municipal and industrial priority Central Arizona Project (CAP) water and for a percentage of the available supply of non-Indian agricultural priority CAP water, historically equal to at least 10,000 acre-feet per year. In addition Mesa has interest in Indian priority CAP water through both leases and exchanges that total nearly 25,000 acre-feet. CAP water supplies make up nearly 45% of the water provided to Mesa customers. Because the CAP is the junior diverter in the lower basin, the management strategies being developed by the Bureau are of critical interest and importance to our citizens. Mesa asks the Bureau to give particular weight to its comments as CAP water users potentially bear the greatest burdens of shortage on the Colorado River.

To that end, please note that Mesa and other Arizona water users have developed a set of concepts that we believe must be addressed in the final management strategy. We ask that the scope of the EIS be sufficiently broad to include the following concepts:

1. Operation of Lakes Powell and Mead must be consistent with the Law of the River, including and in particular the legal requirement that operation for the generation of hydropower is subordinate to operation for water supply purposes. Water users should

1

2

not be subject to an increase in the frequency or duration of shortages for the benefit of hydropower production.

2. The minimum objective release from Lake Powell to the Lower Basin must be at least 8.23 maf/yr. Lower Basin shortage guidelines should expire no later than 2016, with an opportunity for review and revision preceding the expiration date.

3. Any change in Upper Basin deliveries arising out of consultation with the seven basin states regarding conjunctive management of Lakes Powell and Mead must be consistent with the Upper Basin's delivery obligations to the Lower Basin and the Upper Basin's share of the Mexican obligation. If conjunctive management of Lakes Powell and Mead is the implemented strategy, then the time frame for this management strategy may need to be extended beyond 2016, with the opportunity for review and revision preceding the expiration date.

Through a public process established by the Arizona Department of Water Resources the affected Colorado River water users in Arizona have tentatively agreed that the Bureau should evaluate the following Lower Basin shortage volumes. Shortages to the Lower Basin water users in Arizona should be based on water level elevations at Lake Mead as follows:

- 400,000 af shortage at or below 1075 ft at Lake Mead
- 500,000 af shortage at or below 1050 ft at Lake Mead
- 600,000 af shortage below 1025 ft at Lake Mead

The final shortage guidelines must be flexible enough so that, after consultation by the Secretary of the Interior (Secretary) with the affected Arizona water users, any necessary reductions beyond 600,000 acre-feet are accomplished in the least damaging way. The guidelines also should contemplate that improved hydrologic conditions may warrant a lesser shortage volume than indicated by the Lake Mead water level elevation.

4. The management of shortages within Arizona between those Priority 4 water users located along the Colorado River mainstem and those dependent on the CAP was also considered through the Arizona water users' stakeholder process. Mesa believes that the Secretary must apportion shortages among Priority 4 water users in a manner consistent with the language of the Priority 4 contracts and the Law of the River.

5. The affected Arizona water users will determine how to most efficiently manage shortages within Arizona.

6. Operation of the Yuma Desalting Plant must be considered in such a manner as to not increase Lower Basin shortages either with respect to severity, magnitude, duration or frequency of occurrence. 9
7. Mexico and Nevada should share in any Lower Basin shortage. 10
8. Finally, the Secretary should implement the final management strategy through a record of decision after completion of the environmental impact statement by the Bureau. 11

Thank you for the opportunity to comment on this critical issue. Mesa looks forward to working with the State of Arizona and the Bureau as the process for determination of shortage criteria and reservoir management schemes continues.

Sincerely,

Kathryn Sorensen
Water Resources Coordinator

Cc: Herb Guenther, Director, Arizona Department of Water Resources

16 MR. BOYCE: My name is Harvey Boyce, B-O-Y-C-E.
17 I'm here representing the Arizona Power Authority, and we'd
18 like to offer the following into the record:

19 Public power users in Arizona that receive
20 hydropower generation from the Hoover Dam via water
21 deliveries from Lake Mead encourage the federal officials
22 involved in this process to consider the language found in
23 the 1928 Boulder Canyon Project Act and the 1984 Hoover
24 Power Plant Act and those Power contracts written thereto.
25 We find that reclamation is required acting for the
1 Secretary of the Interior to generate and deliver hydropower
2 to the customers of Hoover, also referred to as the Hoover
3 Allottees, which there are 15 in number. Further the 1928
4 Act directs the Secretary of the Interior to provide for
5 hydrogeneration to make the Boulder Canyon Project
6 financially secure. We note that water users of Lake Mead
7 provide less than 1 percent of the Project's funding.
8 Consequently the power users, those 15 customers, bear the
9 bulk of the responsibility to ensure that the financial and
10 integrity of the Boulder Canyon Project remains sound.

11 Therefore, the concerns of the power community
12 within Arizona must be made a part of the modeling criteria
13 and the process such that the elevation of Lake Mead is
14 maintained at or above the minimum power pool elevation.

15 Furthermore the Arizona Power Authority requests
16 that the Hoover power users be included throughout this
17 process. Thank you.

1

2

Diane

From: "pgriffin" <pgriffin@griffinreporters.com>
To: "Diane Donoho" <ddonoho1@cox.net>
Sent: Friday, November 04, 2005 4:20 PM
Subject: FW: Statement to be made at meeting tonight.

FOR YOU!

Mary Ann

Griffin & Associates
602.264.2230
pgriffin@griffinreporters.com
FAX: 602.264.2245
888.529.9990

-----Original Message-----

From: Harvey W. Boyce [mailto:harvey@powerauthority.org]
Sent: Friday, November 04, 2005 3:46 PM
To: Pam Griffin
Subject: FW: Statement to be made at meeting tonight.

Attention: Diane Donoho

Statement of Harvey W. Boyce made at Bureau of Reclamation's public meeting, Evening of Thursday, 11/4/05.

[Harvey W. Boyce] Diane, I deviated from this slightly but, this will give you a comparative document. This can be entered into the record as a seperate document just as though I delivered it to you last night. Thank you.

The public power users in Arizona that receive hydropower generation from Hoover Dam via water from Lake Mead encourage the federal officials involved in this public process to give consideration to the 1928 Boulder Canyon Project Act and the 1984 Hoover Power Plant Act and the Power contracts thereto which require Reclamation to generate and deliver hydro power to the allottees. Further, the 1928 Act directs the Secretary of the Interior to provide hydro generation to make the BCP financially secure. Water users of Lake Mead provide less than 1% of the Projects' funding. Therefore, the power users bear the bulk of responsibility to ensure the financial integrity of the BCP.

Therefore, the concerns of the power community must be made a part of the modeling criteria and process such that the elevation of Lake Mead is maintained at or above the minimum power pool elevation. Furthermore, the Arizona Power Authority requests that the Hoover power users be included in this process.

1
2

Thank you for this opportunity to provide these remarks.

16 MR. LYNCH: I'm Bob Lynch. I am an attorney here
17 in Phoenix and here on behalf of the Irrigation and
18 Electrical District Association of Arizona. Our members and
19 associate members buy most of the power sold in Arizona from
20 the Colorado River Storage Project and most of the power
21 sold through the Arizona Power Authority from Hoover as well
22 as a good slug of the power from the Parker Davis project.
23 So we are very much concerned about the impacts on power
24 generation from shortage criteria that will be developed or
25 might be developed by the Secretary through this process.

1 The problem is that short criteria, at least in
2 my view, are just a way of coming up with a mathematical
3 model for cutting off Central Arizona Project's water and
4 for complicating our ability to have the necessary water to
5 generate power on the river. Neither of these are
6 particularly nice outcomes and is probably a good reason why
7 since 1928 shortage criteria have not been developed on the
8 Colorado river for the Lower Basin states.

9 I'm concerned about your scoping process
10 initially. If I understand the current status of affairs
11 correctly, there are serious questions about modeling that
12 have not been resolved related to the past practice of
13 stopping analysis of minimum power fuel at Lake Powell but
14 not at Lake Mead. I know that the Arizona Department of
15 Water Resources has sent some letters requesting some
16 alternative models be run. I don't know what the answer to
17 that is or whether the Reclamation is going to do that.

1

2

18 There have also been discussions about not following the
19 minimum release criterion on long range operative criteria,
20 8.23 million-acre feet. There's been some talk about the
21 fact that the Secretary of the Interior has the authority to
22 in an appropriate circumstance ignore that criterion and
23 lower that minimum release annually on a given year without
24 any further criteria. I haven't seen anything in the
25 Department of the Interior that would provide any kind of
1 legal justification for that.

2 But the bottom line is that the assumptions are
3 being discussed if not assaulted in this process at this
4 time. Yet Mr. Culp's proposal, your slides all appear to
5 operate on the basis that the law of river long-range
6 operating criteria in the status quo in terms of past
7 practice are not going to change. If that's true, fine.
8 But if you scope this EIS on the basis that that is the
9 case, if it turns out not to be, then you've got to go back
10 to Square 1 underneath it and start it over again because
11 the assumptions everyone is relying on to identify the
12 alternatives and to comment on them and to work with them
13 and analyze them will be wrong.

14 So your first task in my view is getting it
15 settled among the seven basin states, you know, with or
16 without shotguns, as to whether or not this set of
17 assumptions is going to continue to hold true for the
18 process. If it is, fine. If it isn't, well, we'll deal
19 with that probably in court. But that's the, you know, the
20 800-pound gorilla in this process right now. And with a
21 60-day scoping period, you sort of come to the end the

22 public process the end of this month, and I don't think all
23 of these issues will be put to bed by then. I could be
24 wrong, but the way things are going, I don't think so.

25 So we're all in a quandary or at least maybe I'm
1 the only one in a quandary over how to suggest to you
2 various alternatives that need to be assessed and identified
3 in order to have an adequate document as a draft
4 environmental impact statement to present to the public. I
5 know, for instance, that, if you assume that there be will
6 be conditions covered by this criteria that cause either of
7 these reservoirs to drop below the minimum power pool,
8 you've got a very serious economic analysis associated with
9 those events in addition to the environmental and other
10 consequences of not having that water supply.

11 Those impacts include the cost to the purchasing
12 entities for alternative water supplies, the cost to the
13 programs authorized by Congress, the difficulties in dealing
14 with legal issues that have already been mentioned tonight
15 about the obligations of the Secretary to deliver this
16 resource and generate it. Both reservoirs are covered by
17 funds within the United States Treasury. They're different
18 kind of funds, but basically they're used to pay the bills.
19 And Power pays essentially all the bills for both the
20 Boulder Canyon Project and Colorado River storage Project as
21 well as a good slug of the bills for the Parker Davis
22 Project.

23 There are some very serious socioeconomic
24 consequences associated with this and related economic

25 damage in communities, especially rural communities and
1 agricultural communities, in all three states that will have
2 to be assessed. So deciding whether you're going to protect
3 minimum power pool at Glen Canyon or Hoover or neither is a
4 major cut and a major analysis that you're going to have to
5 go through in deciding how to fashion alternatives to
6 display in the draft environmental impact statement. And
7 you're going to have to gather some information. One of the
8 unfortunate things that has crept into the Council on
9 Environmental Regulations is the requirement to go get
10 information if you haven't got it. In a day of adaptive
11 management, I don't think that makes any sense, but it's
12 there. And I doubt seriously that the agency's got its arms
13 around these potential economic or socioeconomic
14 consequences at this point.

15 There are other factors that appear not to be
16 within what you are currently contemplating. For instance,
17 shortages absorbed by Mexico under the 1944 treaty are not
18 in these slides. Now, I know that's governed by a treaty
19 and that makes things a little more complicated, and
20 shortages and surpluses mean different things in different
21 documents. But I don't see how you contemplate analyzing
22 what might happen to the Lower Basin states without
23 including an analysis of what might happen with regard to
24 the treaty in Mexico. Whether you get the Mexican
25 government to cooperate in that event is not relevant to
1 having to analyze what the impacts would be if they did or
2 didn't cooperate. And those factors will have to be
3 included in your development of alternatives.

4 The future is related to water supply storage
5 availability of water in Lake Mead, the other strategies
6 that are being worked on in the Lower Basin, alternative
7 storage in the area of the All-American Canal. It's a whole
8 panoply of things that will potentially affect our ability
9 to conserve water in the Lower Basin will need to be
10 included.

11 I think also you're going to have to take a hard
12 look at the statutory requirement to augment water supplies
13 that's contained in the 1968 account and is, of course, an
14 unfulfilled promise to the basin as a whole and the lower
15 basin especially. That is not an idle promise. It was a
16 major reason why Arizona ultimately supported the Act with
17 the Central Arizona Project being the stepchild of the
18 river. And augmentation has been an activity that
19 reclamation has been involved in on an experimental basis
20 before, and it needs to be factored into the analysis as
21 part of one or more alternatives that would come into play.
22 I won't ask the agency to support that concept. I'm just
23 trying to tell you you have to analyze it whether you want
24 to support it or not.

25 That's probably enough for you to chew on for
1 this evening. I will be submitting written comments by the
2 November 30 deadline, and thank you for the opportunity.

4 MS. JAMES: My name is Leslie James. I'm
5 executive director of the Colorado River Energy Distributors
6 Association or CREDA. I won't reiterate several of the
7 comments that were made by Mr. Boyce and Mr. Lynch, but I
8 did want to provide a few supplemental remarks.

9 CREDA is a nonprofit organization that represents
10 the majority of the power customers of the Colorado River
11 Storage Project of which we all know that Glen Canyon is the
12 largest feature of the project. CREDA members in six states
13 serve over four million consumers and all are nonprofit
14 entities.

15 The 1956 Colorado River Storage Act, Section 7,
16 requires that hydroelectric power plants be operated so as
17 to produce the greatest practical amount of power and
18 energy. Section 5 of that Act also established the basin
19 fund, and both Harvey and Bob talked about how the power
20 function or the authorized power purpose is the paying
21 partner of these projects. In the CRSP power revenues fund
22 about 95 percent of the irrigation investment in the project
23 along with all the power investment, operation maintenance,
24 replacements, as well as funding the adaptive management
25 program down here at Glen Canyon Dam, a portion of the Upper
1 Basin Recovery Implementation Program, a portion of the
2 Solidity Control Program. And all of this funding comes
3 from the basin fund.

4 As both Bob and Harvey mentioned, the Hoover
5 funding and CRSP funding are different in some respects but

6 are the same in other respects. The basin fund's sole
7 source of money are power revenues. The drought has been
8 quite unkind to basin fund. The utility customers who
9 purchase power from western area power administration from
10 the Colorado River Storage Project have seen quite serious
11 impacts. In fact since about 1999 the Colorado River
12 Storage Project rate has increased 44 percent, and yet
13 deliveries, power deliveries have been reduced by
14 22 percent.

15 Now, those numbers don't even taken into
16 consideration the individual utility impact that they have
17 had to make to supplement the amount of deliveries that
18 could not be made because of CRSP resources reduction.
19 Based on some preliminary analysis, in the event power
20 generation ceased at Glen Canyon Dam even for a few months
21 each year from 2007 to 2009, the CRSP rate would have to
22 increase 99.8 percent.

23 The initial notice back in the summer indicated
24 that it's the Department's intent that the development of
25 management strategies would provide more predictability to
1 water users throughout the basin. It is our view that,
2 based on power being an authorized purpose of this project
3 as well as the financial considerations, that the impacts
4 on -- the economic impacts on power generation need to be
5 treated equally, if not more so, in all of this analysis.

6 We'd like to thank Arizona Department of Water
7 Resources. We were able to make a presentation at one of
8 the early meetings to talk about these impacts from the CRSP
9 power customers' standpoint and thank the Bureau for the

10 opportunity to make comments. And we'll submit written
11 comments by the deadline. Thank you.

1 HENDERSON, NEVADA, TUESDAY, NOVEMBER 8, 2005

16 MR. CAAN: I've got a comment, if I may, and I
17 think everyone will hear me without the microphone.

18 My name is George Caan. I'm the
19 Executive Director of the Colorado River Commission.
20 I'll give you a card.

21 First, I want to thank the Bureau of
22 Reclamation for having put on these meetings and
23 getting the public's input into this plan. Today I'm
24 speaking not as the director of the Colorado River
25 Commission, but instead as a board member of the
1 Colorado River Energy Distributors Association, known
2 as CREDA. CREDA is a nonprofit organization composed
3 of power customers who take power from the upper
4 basin projects, known as the CRSP.

5 My purpose today is to offer to the
6 bureau a suggestion to insure that the bureau work
7 closely with western to analyze impact to the basin
8 fund for whatever shortage criteria that comes out,
9 and let me be specific. The revenues from the Upper
10 Colorado River projects paid by power customers go
11 into a basin fund and then those revenues and funds
12 are used to pay for the operation, maintenance,
13 repair and upkeep of those projects. In addition to
14 that, over \$20 million is used from that fund to pay
15 for environmental programs that are not power
16 related, directly power related.

17 The shortage criteria and the drought

18 could or will have an impact on the power production
19 of those facilities. Therefore, the revenues
20 produced by those facilities will be reduced. We
21 aren't suggesting what to do with respect to that
22 reduction, all we're saying is that we would like the
23 bureau to work very closely with western to assess
24 the impact on that fund from the shortage criteria,
25 and then to look at strategies that might be put in
1 place in appropriations or others to pay for some of
2 the non-power related costs and help support the
3 funding of the operation and the maintenance of those
4 facilities. Thank you.

P R O C E E D I N G S

The following public comments were made:

DAVID MAZOUR: My name is David Mazour, M-a-z-o-u-r. I work for Tri-State Generation and Transmission Association. Tri-State is a power supplier -- a consumer-owned power supplier that provides electricity to 44 rural distribution systems in four states. The end user of those 44 systems owns them, and those 44 systems own us. So we're truly consumer-owned. Tri-State is a member of CREDA, Colorado River Energy Distributors Association, and CREDA represents the power customers from the Colorado River storage project, and I'm appearing here today on behalf of CREDA.

CREDA will be -- an executive director will be testifying or making comments tomorrow at your forum in Phoenix, but I was requested to just make a few very, very brief comments, and the comment I'd like to make -- well, actually, two points. First of all, CREDA is involved in a number of Colorado River processes. One is the stakeholders' process in developing the annual operating plan. CREDA is involved in the adaptive

L-2018

1 management program for the Grand Canyon below Lake
2 Powell, and CREDA is also a representative and an
3 active participant in the recovery program in the
4 upper Colorado River. So the power customers are
5 involved in several forums.

6 Power impacts are an issue that we feel
7 should be considered as these shortage criteria are
8 being developed, and this request is -- and as I
9 say, Leslie James will be commenting more
10 thoroughly tomorrow -- but I just wanted to make a
11 point that as these shortage criteria are being
12 developed, the power impacts really need to be
13 evaluated because the revenues from the sale of
14 power are used to operate and maintain the
15 reservoir as well as about \$20 million a year from
16 power revenues that are used for nonoperational
17 programs, for environmental programs. They fund
18 the salinity control program. They fund parts of
19 the adaptive management program. And they also are
20 a key funder in the upper Colorado River recovery
21 program for the endangered fish. And so, again,
22 that's the brief comment I'd like to make, and
23 we'll have further details and more information
24 tomorrow.

25 Thank you very much.

L-2018