

**The States of Colorado, New Mexico, Utah and Wyoming
Governor's Representatives on Colorado River Operations**

October 7, 2004

**The Honorable Gale Norton
Secretary of the Interior
1849 - C Street, N.W.
Washington, D.C. 20240**

Dear Secretary Norton:

We appreciate the leadership you have demonstrated in matters relating to the use and management of the Colorado River. We also appreciate the recent inclusion in the proposed Annual Operating Plan for Colorado River Reservoirs, of language that responds to current reservoir conditions by providing for a mid-year review and potential adjustment of releases from Lake Powell.

You have consistently asked the Colorado River Basin States to reach consensus on important issues of Colorado River management, and to communicate our views to you. Your efforts at consultation with the Basin States have been a key to the recent successes of the Basin States and the Department of the Interior in resolving important issues on the River.

In this light, we have today directed a letter to the Governor's Representatives of the Lower Division States, inviting state-to-state discussions that would attempt to address some of the fundamental unresolved issues we face concerning management of the River. We recognize the difficulty of these issues, and the vital role of the United States government in this management. Therefore, we have enclosed for your information a copy of this correspondence. We will advise you as these discussions move forward, and we are certain that the United States will be invited to participate at an early point in this process.

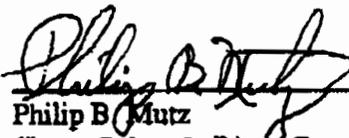
In the meantime, if you have questions or concerns regarding the initiative we have undertaken with the Lower Division States, please do not hesitate to communicate with us. We look forward to continuing to work closely with you and with the staff of the Department of the Interior and Bureau of Reclamation toward better management of the River for the benefit of all of our citizens.

The Honorable Gale Norton
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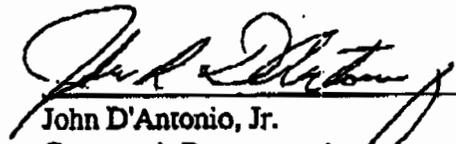
Very truly yours,



Scott Balcomb
Upper Colorado River Commissioner
State of Colorado



Philip B. Mutz
Upper Colorado River Commissioner
State of New Mexico



John D'Antonio, Jr.
Governor's Representative
State of New Mexico



D. Larry Anderson
Director
Utah Division of Water Resources



Patrick T. Tyrrell
Governor's Representative
State of Wyoming

cc: Bennett Raley, Assistant Secretary for Water and Science
Richard Bunker
Herb Guenther
Pat Mulroy
Gerald R. Zimmerman

**The States of Colorado, New Mexico, Utah and Wyoming
Governor's Representatives on Colorado River Operations**

October 7, 2004

Herb Guenther
Director
Arizona Department of Water Resources
500 N. 3rd Street
Phoenix, AZ 85004-3903

Gerald R. Zimmerman
Executive Director
Colorado River Board of California
770 Fairmont Ave., Suite 100
Glendale, CA 91203

Pat Mulroy
General Manager
Southern Nevada Water Authority
3700 W. Charleston Blvd.
Las Vegas, NV 89153

Richard Bunker
Chairman
Colorado River Commission of Nevada
3305 W. Spring Mountain Rd. #60
Las Vegas, NV 89102

Dear Colleagues:

The Colorado River Basin States have established a beneficial working relationship over the last 20 years. This relationship has allowed us to work together to successfully resolve difficult problems such as California's overuse of its basic apportionment, interstate water banking, and environmental compliance.

We now face another, perhaps even more difficult, challenge. Declining reservoir levels have raised fundamental issues associated with the allocations established under the Colorado River Compact, the Boulder Canyon Project Act as interpreted by the decree in *Arizona v. California*, and the Mexican Treaty. Given long term hydrologic trends and increasing demands on the River, it is apparent these issues will not go away, even if we are blessed with a few years of favorable runoff. Additionally, since the Secretary will reassess in April the Lake Powell release, it is important that we coordinate soon on the Basin States' position with respect to this review.

The fundamental issue for the Upper Basin relates to whether a deficiency exists under Article III(c) of the Compact, which would trigger an obligation of the Upper Basin to share in any such deficiency. As you are aware, it has been our consistent position that because no such deficiency has been shown to exist, the Upper Basin has no obligation in this regard. This position implicates other questions concerning the Law of the River. Because of an abundance of water supply and relative lack of demand, it has not been necessary to address these issues until now.

Technical representatives of the States have been meeting over the last several months to discuss River modeling and efforts to more efficiently use and manage water. However, the unresolved

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legal and policy issues under the Law of the River should not be addressed by technical representatives. They are sufficiently important that they should be discussed by the Governors' Representatives.

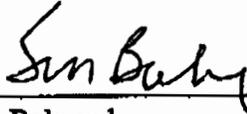
We believe the time has come to begin a formal dialogue between the States on these issues. As necessary, the Department of the Interior and others should be involved, but we believe these are manifestly state-to-state matters, and should remain so. We seek to avoid having such issues determined by the federal government or by acrimonious and expensive litigation.

Therefore, we would like to schedule a meeting with you to determine whether it is feasible to establish a framework for state-to-state discussions on these issues of mutual concern. These issues are of such importance that we owe it to our respective States and to future generations to attempt to resolve them.

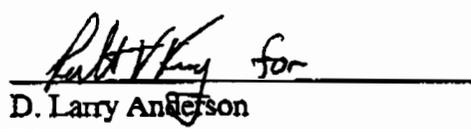
We look forward to your response, and to continuing the open communication and cooperation we have enjoyed over the last several years.

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Very truly yours,



Scott Balcomb
Upper Colorado River Commissioner
State of Colorado


Philip B. Mutz
Upper Colorado River Commissioner
State of New Mexico
John D'Antonio, Jr.
Governor's Representative
State of New Mexico
D. Larry Anderson
Director
Utah Division of Water Resources
Patrick T. Tyrrell
Governor's Representative
State of Wyoming

cc: The Honorable Gale Norton, Secretary of the Interior
Bennett Raley, Assistant Secretary for Water and Science

STATE OF COLORADO

OFFICE OF THE EXECUTIVE DIRECTOR

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1313 Sherman Street, Room 718
Denver, Colorado 80203
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October 7, 2004



DEPARTMENT OF
**NATURAL
RESOURCES**

Bill Owens
Governor

Russell George
Executive Director

Secretary Gale Norton
Department of Interior
1849 C Street, N.W.
Washington D.C. 20240

Dear Secretary Norton:

The drought in the Upper Colorado River basin continues to present significant challenges to the Upper Basin States. If these historic drought conditions continue, there is the possibility that the storage in Lake Powell could drop below the minimum elevation for power production. The water level elevation as of September 30, 2004 was 3570.8 feet, or 9.146 MAF of live storage, and is projected to reach a low prior to spring runoff of 3551.82, or 7.716 MAF of live storage. The minimum elevation necessary to produce power is 3490 or 4.126 MAF of live storage.

This drought situation is unprecedented and could have tremendous impacts not only to power customers, but the entire Upper Basin. CRSP power could be priced out of the market and the funding necessary to support the legally mandated Recovery Programs could be exhausted.

As you know, the revenues produced from CRSP power generation are an important source of funding for the San Juan River Endangered Fish Recovery Implementation Program and the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River, as well as the Glen Canyon Adaptive Management Program. Pursuant to the long-term funding legislation for the Upper Colorado and San Juan Recovery Programs, the revenues from CRSP power generation provide for habitat acquisition, fish passage structures, conservation and stocking programs, among other things. The Department of Interior and Congress have long supported funding for these recovery programs and continued funding is critical to the ability of the Upper Basin States to implement recovery efforts and thereby continue to use our Compact apportionments.

The Western Area Power Administration ("WAPA") is forecasting about 4300 gigawatt-hours ("GWh") of energy production in FY05. Of that amount, about 3200 GWh comes from Glen Canyon, and only 1100 GWh is produced by other plants. If Glen Canyon was unable to produce power, WAPA would have to purchase over \$200M worth of power to firm up contractual commitments. That would exhaust the Upper Colorado River Basin Fund. In addition, the power purchases would cause a sharp increase in the rate WAPA charges customers. This increase would likely be in excess of the market rate and WAPA customers consequently would be unlikely to purchase CRSP power. Even if WAPA did not attempt to meet its firm power commitments, the need to sell the remaining power at a rate high enough to meet the annual operating and maintenance costs for Colorado River Storage Project facilities would still be likely to push the cost of CRSP power above market rate, thus penalizing publicly-owned utilities.

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Currently the objective for releases through Glen Canyon is a minimum of 8.23 MAF per year. One way to keep Glen Canyon generating through these conditions is to release less water, which is consistent with the Long Range Operating Criteria. However there would be a corresponding loss of generation with lower releases. Releasing less water may be an alternative to soften the impacts and to get through the drought without a loss of power production, but the only permanent solution is runoff near average or greater.

Given the possibility that Lake Powell could drop below the minimum elevation necessary to produce power and keep the recovery programs fully funded, we request that you strongly consider including appropriations in the President's budget requests to keep these important programs fully funded should the revenues associated with CRSP power production become inadequate. Thank you in advance for your consideration and assistance in this important matter.

Sincerely,



Russell George
Executive Director
Department of Natural Resources

cc: Assistant Secretary Raley
Assistant Secretary Manson
Commissioner Keys
Colorado Congressional Delegation
CWCB members
UCRC members



State Engineer's Office

HERSCHLER BUILDING, 4-E CHEYENNE, WYOMING 82002
(307) 777-7354 FAX (307) 777-5451

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October 14, 2004

DAVE FREUDENTHAL
GOVERNOR

PATRICK T. TYRRELL
STATE ENGINEER

RECEIVED

OCT 26 2004

Colorado Water Conservation Board

The Honorable Gale Norton
Secretary of the Interior
Office of the Secretary
Department of Interior
1849 C Street, N.W.
Washington D.C. 20240

Dear Secretary Norton:

I am writing this letter to request that your Department include appropriation requests in the President's budget for fiscal year 2007 in the event that Lake Powell's elevation would drop below the minimum elevation necessary to produce power is 3490 or 4.126 MAF of live storage. The ongoing drought in the Upper Colorado River Basin, now entering its sixth consecutive year, is unprecedented during the period since completion of Glen Canyon Dam and continues to present significant challenges to the Upper Basin States. If these historic drought conditions continue, there is a distinct possibility that the storage in Lake Powell could drop below the minimum elevation for power production. Lake Powell's water level elevation as of September 30, 2004 was a little less than 3,571 feet with live storage being at 9.17 million acre-feet. Lake Powell is projected to reach a low prior to spring runoff of 3551.82, or 7.716 MAF of live storage. At that point in time, the reservoir will be only a little over 60 feet above the elevation at which hydropower generation would have to be suspended.

Suspension of power generation at the Glen Canyon Power Plant would have grave consequences and tremendous impacts not only for power customers who use Glen Canyon generation as a part of their power supply resource, but also for the entire Upper Basin. As you know, revenues obtained from the sale of Colorado River Storage Project (CRSP) power generation are an important and integral source of funding for the Upper Colorado River Basin Development Fund. In turn, the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Endangered Fish Recovery Implementation Program, as well as the Glen Canyon Adaptive Management Program, are dependent upon the Basin Fund as a source of program funding. Pursuant to P.L. 106-392, revenues from CRSP power generation are used for annual operation and maintenance funding by the aforementioned Recovery Programs. The Glen Canyon Adaptive Management Program and the Colorado River Basin Salinity Control Program also make use of Upper Colorado River Basin Development Fund monies that has as their source CRSP power revenues. This funding is critical to the ability of the Upper Basin States to continue to use our Compact apportionments.

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The Western Area Power Administration ("Western") is forecasting about 4300 Gigawatt-hours ("GWh") of energy production in FY05. Of that amount, about 3200 GWh comes from water releases made through Glen Canyon Dam. If the Glen Canyon Power Plant were unable to produce power, Western would have to purchase over \$200M worth of power to firm up contractual commitments, and in so doing would exhaust the Upper Colorado River Basin Fund. Power purchases at such an unprecedented level would doubtlessly result in sharp increases in the power rate paid by customers to Western. This increase would most likely be well above the prevailing market rate and consequently Western's customers would turn elsewhere and thus be unlikely to purchase CRSP power. Furthermore, presuming that Western did not attempt to meet its firm power commitments, the need to sell the remaining power at a rate high enough to meet the annual operating and maintenance costs for CRSP facilities would likely push the cost of CRSP power above market rate, thus penalizing publicly owned utilities.

Given the possibility that Lake Powell could drop below the minimum elevation necessary to produce power and keep the recovery programs fully funded, we request that you strongly consider including appropriations in the President's budget requests to keep each of the mentioned, important programs fully funded in the event that Upper Colorado River Basin Development fund revenues derived from CRSP power production become inadequate. Should you have any questions, please don't hesitate to contact me. Thank you in advance for your consideration and assistance in this important matter.

With best regards,



Patrick T. Tyrrell
Wyoming State Engineer
Wyoming Commissioner,
Upper Colorado River Commission

PTT/jws/js

cc: Governor Dave Freudenthal
Upper Colorado River Commissioners
Commissioner, U.S. Bureau of Reclamation
Upper Colorado Regional Director, U.S. Bureau of Reclamation