

## **Seven Basin States' Preliminary Proposal Regarding Colorado River Interim Operations**

The Seven Basin States (States) have worked together to recommend interim operations to the Secretary that should minimize shortages in the Lower Basin and avoid the risk of curtailment in the Upper Basin through conservation, more efficient reservoir operations, and long-term alternatives to bring additional water into the Colorado River community.

The States' recommendation has three key elements. First, the States propose to manage the reservoirs to minimize shortages and avoid curtailments. Second, the States have identified actions in the Lower Basin to conserve water. Third, the States recommend a specific proposal for implementing shortages in the Lower Basin. Finally, the States recognize the need for additional water supplies to meet the current and future needs in the Basin.

### **Section 1. Allocation of Unused Basic Apportionment Water under Article II(B)(6)**

#### **A. Introduction**

Article II(B)(6) of the 1964 Decree in *Arizona v. California* (Decree) allows the Secretary to allocate water that is apportioned to one Lower Division State, but is for any reason unused in that State, to another Lower Division State. This determination is made for one year only and no rights to recurrent use of the water accrue to the State that receives the allocated water.

#### **B. Application of Unused Basic Apportionment**

Before making a determination of a surplus condition under this proposal, the Secretary will determine the quantity of apportioned but unused water under Article II (B)(6), and will allocate such water in the following order of priority.

1. Meet the direct delivery domestic use requirements of the Metropolitan Water District of Southern California, (MWD) and the Southern Nevada Water Authority (SNWA), as allocated between them by agreement.
2. Meet the needs of off stream banking activities by MWD in California and SNWA in Nevada, as allocated between them by agreement.
3. Meet the other needs for water in California in accordance with the California Seven-Party Agreement as supplemented by the Quantification Settlement Agreement.

### **Section 2. Coordinated Operation of Lakes Powell and Mead**

Figure 1 describes the operating strategy that has been agreed to by the Colorado River Basin States.

<b>Powell Elevation (feet)</b>	<b>Powell Operation</b>	<b>Powell Live Storage (maf)</b>
<b>3700</b>	Equalize or 8.23 maf	<b>24.32</b>
<b>3636 - 3664</b> (see table below)	----- 8.23 maf; if Mead < 1075 feet, balance contents with a min/max release of 7.0 and 9.0 maf	<b>15.54- 19.02</b>  (2008 - 2025)
<b>3575</b>	----- 7.48 maf	<b>9.52</b>
<b>3525</b>	----- 8.23 maf if Mead < 1025	<b>5.93</b>
<b>3370</b>	Balance contents with a min/max release of 7.0 and 9.5 maf	<b>0</b>

Lake Powell Equalization Elevation Table

In each of the following years, the Lake Powell Equalization Elevation will be as follows:

Year	Elevation (feet)
2008	3636
2009	3639
2010	3642
2011	3643
2012	3645
2013	3646
2014	3648
2015	3649
2016	3651
2017	3652
2018	3654
2019	3655
2020	3657
2021	3659
2022	3660
2023	3662
2024	3663
2025	3664

1. Equalization: In years when Lake Powell content is projected on January 1 to be at or above the elevation stated in the Lake Powell Equalization Elevation Table, an amount of water will be released from Lake Powell to Lake Mead at a rate greater than 8,230,000 acre-feet per year to the extent necessary to equalize storage in the two reservoirs, or otherwise to release 8,230,000 acre-feet from Lake Powell.
2. Upper Elevation Balancing: In years when Lake Powell content is projected on January 1 to be below the elevation stated in the Lake Powell Equalization Elevation Table and at or above 3575 ft., the Secretary shall release 8,230,000 acre-feet from Lake Powell if the projected elevation of Lake Mead is at or above 1075 ft. If the projected elevation of Lake Mead is below 1075 ft., the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release no more than 9,000,000 acre-feet and no less than 7,000,000 acre-feet from Lake Powell.
3. Mid-Elevation Releases: In years when Lake Powell content is projected on January 1 to be below 3575 ft. and at or above 3525 ft., the Secretary shall release 7,480,000 acre-feet from Lake Powell if the projected elevation of Lake Mead is at or above 1025 ft. If the projected elevation of Lake Mead is below 1025 ft., the Secretary shall release 8,230,000 acre-feet from Lake Powell.
4. Lower Elevation Balancing: In years when Lake Powell content is projected on January 1 to be below 3525 ft., the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release no more than 9,500,000 acre-feet and no less than 7,000,000 acre-feet from Lake Powell.

Coordinated Operation of Lakes Powell and Mead as described herein will be presumed to be consistent with the Section 602(a) storage requirement contained in the Colorado River Basin Project Act.

The objective of the operation of Lakes Powell and Mead as described herein is to avoid curtailment of uses in the Upper Basin, minimize shortages in the Lower Basin and not adversely affect the yield for development available in the Upper Basin.

The August 24-month study projections for the January 1 system storage and reservoir water surface elevations, for the following year, would be used to determine the applicability of the coordinated operation of Lakes Powell and Mead.

### **Section 3. Determination of Lake Mead Operation during the Interim Period**

#### **A. Interim Surplus Guidelines**

1. The Basin States recommend that the Secretary continue to implement the Interim Surplus Guidelines (ISG) except as modified by this proposal, including the following:

- a. Partial Domestic Surplus would be discontinued upon issuance of the Record Of Decision (“ROD”); and
  - b. The ISG effective period would be extended through December 31, 2025.
2. During the years 2017 through 2025 the Secretary shall distribute Domestic Surplus water:
- a. For use by MWD, 250,000 acre-feet per year in addition to the amount of California’s basic apportionment available to MWD.
  - b. For use by SNWA, 100,000 acre-feet per year in addition to the amount of Nevada’s basic apportionment available to SNWA.
  - c. For use in Arizona, 100,000 acre-feet per year in addition to the amount of Arizona’s basic apportionment available to Arizona contractors.

B. Flood Control Surplus

In years in which the Secretary makes space building or flood control releases pursuant to the Field Working Agreement, the Secretary shall determine a Flood Control Surplus for the remainder of that year or the subsequent year as specified in Section 7 of the ISG. In such years, releases will be made to satisfy all beneficial uses within the United States, including unlimited off-stream banking. Intentionally Created Surplus credits, as defined herein, would be reduced by the amount of any flood control release, if necessary until no credits are remaining. Under current practice, surplus declarations under the Treaty for Mexico are declared when flood control releases are made. Operation under a Flood Control Surplus does not establish any determination relating to implementation of the Treaty, including any potential changes in approach relating to surplus declarations under the Treaty. Such determinations must be addressed in a bilateral fashion with the Republic of Mexico.

C. Quantified Surplus  
(70R Strategy)

In years when the Secretary determines that water should be released for beneficial consumptive use to reduce the risk of potential reservoir spills based on the 70R Strategy, the Secretary shall determine and allocate Quantified Surplus sequentially as follows:

- 1. Establish the volume of the Quantified Surplus. For the purpose of determining the existence, and establishing the volume, of Quantified Surplus, the Secretary would not consider the volume of Intentionally Created Surplus credits, as defined herein.
- 2. Allocate and distribute the Quantified Surplus 50% to California, 46% to Arizona and 4% to Nevada, subject to 3. through 5. that follow.

3. Distribute California's share first to meet basic apportionment demands and MWD's demands. Then distribute to California Priorities 6 and 7 and other surplus contracts. Distribute Nevada's share first to meet basic apportionment demands and SNWA's demands. Distribute Arizona's share to surplus demands in Arizona including off stream banking and interstate banking demands. Arizona, California and Nevada agree that Nevada would get first priority for interstate banking in Arizona.
4. Distribute any unused share of the Quantified Surplus in accordance with Section 1, Allocation of Unused Basic Apportionment Water Under Article II (B)(6).
5. Determine whether MWD, SNWA and Arizona have received the amount of water they would have received under Section 3 D of this proposal, Domestic Surplus, if a Quantified Surplus had not been declared. If they have not, then determine and meet all demands provided for in Section 3 D, Domestic Surplus.

#### D. Domestic Surplus

In years when Lake Mead elevation is projected on January 1 to be above 1145 ft and below 70R Strategy elevation determination, the Secretary would determine a Domestic Surplus in accordance with Section 2(B)(2) of the ISG between the effective date of the ROD and December 31, 2016 and in accordance with Section 3(A) (2) of this proposal between January 1, 2017 and December 31, 2025.

#### E. Normal Conditions

In years when Lake Mead elevation is projected on January 1 to be above elevation 1075 ft. and below 1145 ft., the Secretary would determine a normal operating condition. In any year when Lake Mead elevations are in this range, the Secretary may determine that Intentionally Created Surplus ("ICS") as described in Section 4 of this proposal is available. ICS credits may then be delivered pursuant to the provisions of Section 4.

#### F. Shortage Conditions

Shortages would be implemented in the Lower Division States and Mexico under the following conditions and in the following manner:

1. 400,000 acre foot shortage: In years when Lake Mead content is projected on January 1 to be at or below elevation 1075 ft. and at or above 1050 ft., a quantity of 400,000 acre-feet shall not be released or delivered in the Lower Division States and Mexico.
2. 500,000 acre foot shortage: In years when Lake Mead content is projected on January 1 to be below elevation 1050 ft. and at or above 1025 ft. a quantity of 500,000 acre-feet shall not be released or delivered in the Lower Division States and Mexico.

3. 600,000 acre foot shortage: In years when Lake Mead content is projected on January 1 to be below 1025 ft., a quantity of 600,000 acre-feet shall not be released or delivered in the Lower Division States and Mexico.
4. The three conditions described above are illustrated in Figure 2.

Figure 2

Lake Mead Step Shortage		
Mead Elevation (ft)	Stepped Shortage	Mead Live Storage
1075 to 1050	400 kaf	9.37 to 7.47 maf
<1050 to 1025	500 kaf	7.47 to 5.80 maf
<1025 to 1000	600 kaf	5.80 to 4.33 maf
<1000	Increased reductions to be consistent with consultation(s)	<4.33 maf

5. The United States, through the appropriate mechanisms, should implement a shortage pursuant to Article 10 of the 1944 Treaty in any year in which the Secretary has declared that a shortage condition exists pursuant to Art. II(B)(3) of the Decree. The total quantity of water that will not be released or delivered to Mexico shall be based on Lower Basin water deliveries during normal water supply conditions. The proportion of the shortage that shall be borne by Mexico will be 17% ( $1.5 \text{ maf} / 9 \text{ maf} \times 100\% = 17\%$ ).
6. Arizona and Nevada will share shortages based on a shortage sharing agreement. In the event that no agreement has been reached, Arizona and Nevada will share shortages in accordance with the 1968 Colorado River Basin Project Act, the Decree, other existing law as applicable, and the Interstate Banking Agreement between Arizona and Nevada parties.
7. Whenever Lake Mead reaches elevation 1025 ft., the Secretary will consult with the States to determine whether Colorado River hydrologic conditions, together with the delivery of 8.4 million acre-feet of Colorado River water to Lower Basin users and Mexico, will cause the elevation of Lake Mead to fall below 1000 ft. Upon such a determination, the Secretary shall consult with the states to discuss further measures that may be undertaken to avoid or reduce further increases in shortage determinations. If increased reductions are required, the Secretary shall implement the reductions consistent with the law of the river.
8. The States will evaluate factors at critical elevations that may avoid shortage determinations as reservoir elevations approach critical thresholds. The States may provide operational recommendations surrounding the critical elevations at some later date.

#### **Section 4. System Efficiency, Extraordinary Conservation and Augmentation Projects**

The States propose that the Secretary develop a policy and accounting procedure concerning augmentation, extraordinary conservation, and system efficiency projects, including specific extraordinary conservation projects, tributary conservation projects, introduction of non-Colorado River System water, system efficiency improvements and exchange of non-Colorado River System water. The accounting and recovery process would be referred to as “Intentionally Created Surplus” consistent with the concept that the States will take actions to augment storage of water in the Lower Colorado River Basin. The water would be distributed pursuant to Section II(B)(2) of the Decree and forbearance agreements between the States. The ICS credits may not be created or released without such forbearance agreements.

- A. The purposes of the Lake Mead Intentionally Created Surplus (“ICS”) program are to:
  - 1. Help avoid shortages to the Lower Basin. For the purposes of determining calendar year declarations of Domestic Surplus, Normal and Shortage conditions, any ICS credits would be considered system water;
  - 2. Benefit both Lake Mead and Lake Powell; and
  - 3. Increase the surface elevations of both Lakes Powell and Mead to higher levels than would have otherwise occurred.
  
- B. Extraordinary Conservation Storage Credits
  - 1. Users of Colorado River water may create ICS credits through extraordinary conservation under the following conditions:
    - a. A Boulder Canyon Project Act Section 5 Contractor (“Contractor”) shall repay all outstanding system payback obligations before it can create ICS credits.
    - b. ICS credits can only be created if such water could have otherwise been beneficially used.
    - c. A Contractor notifies Reclamation by September 15 of the amount of ICS credits it wishes to create for the subsequent year.
  - 2. ICS credits may be created only through extraordinary conservation activities. These activities include:
    - a. Fallowing of land that currently is, historically was, and otherwise would have been in the next year, irrigated.
    - b. Canal lining programs
    - c. Desalination programs

- d. Extraordinary conservation programs existing as of January 1, 2006
    - e. Other extraordinary conservation measures as agreed upon by the States
  3. If conditions during the year change due to weather or other unforeseen circumstances, a Contractor may request a mid-year modification of its water order to reduce the amount of ICS credits created during that year. A Contractor cannot increase the amount of ICS credits it had previously scheduled to create during the year.
  4. Any ICS credits would be used first to offset any overrun for that year or future year(s).
  5. The maximum amount of ICS credits that can be created during any year through extraordinary conservation is limited to each state as listed below.
    - a. California: 400,000 acre-feet per year
    - b. Nevada: 125,000 acre-feet per year
    - c. Arizona: 100,000 acre-feet per year
  6. The maximum cumulative amount of ICS credits created through extraordinary conservation that would be available at any one time is:
    - a. 1,500,000 acre-feet for California;
    - b. 300,000 acre-feet for Nevada; and
    - c. 300,000 acre-feet for Arizona.
  7. No category of surplus water can be used to create ICS credits.
  8. At the time the ICS credits are created by extraordinary conservation, the Contractor will dedicate 5% of the ICS credits to the system on a one-time basis to provide a water supply benefit to the system. Additionally, ICS credits will be subject to annual evaporation loss (estimated to be no more than 3% annually) during each year in which no shortage has been declared. The Secretary will not assess any other charge for creating ICS credits.
  9. Contractors that have created ICS credits may recover them under the following conditions:
    - a. A Contractor may request delivery of ICS credits it has created at the time it submits its annual water order for the following year. The ICS credits would be added to the Contractor's approved water order for that year upon approval by Reclamation.

- b. The amount of ICS credits that may be recovered by California in any one year is limited to 400,000 acre-feet, by Nevada 300,000 acre-feet and Arizona 300,000 acre-feet; provided that the May 1, 24-month study for that year does not indicate that a shortage condition would be declared in the current or succeeding year.
  - c. If extraordinary weather conditions or water emergencies occur, a Contractor may request that Reclamation increase its use of ICS credits for that year.
  - d. A Contractor may request to reduce its use of ICS credits during the year for any reason, including reduction in water demands.
  - e. If Reclamation releases water for flood control purposes, ICS credits shall be reduced on a pro-rata basis among all holders of ICS credits-- if necessary until no credits remain. In determining the amount of Quantified Surplus, Reclamation shall not consider the volume of ICS credits that will be available.
10. Contractors may begin to create ICS through extraordinary conservation 1) beginning in 2006 as a pilot program (which may be lost if the Secretary does not adopt an extraordinary conservation program as part of the Coordinated Operation of Lakes Powell and Mead) or 2) after adoption of the Coordinated Operation for Lakes Powell and Mead until 2025. Any ICS credits under this program remaining at the end of the program would remain available for recovery for up to 10 years following termination of the Program.

### C. Tributary Conservation

The Secretary should develop procedures in consultation with the States that would permit Contractors to purchase and fallow annual or permanent water rights on tributaries within the Lower Division States that have been used for a significant period of years and were created prior to Congress' adoption of the Boulder Canyon Project Act that, when retired, and verified by the Secretary, contribute water to the Colorado River mainstream for diversion by the Contractor. The water recovered by the Contractor may be used for municipal and industrial purposes only. This water would be in addition to the State's basic apportionment and would be available during declared shortages.

It is intended that the water would be taken on a real-time basis and that not more than 95% of such water will be recovered; however, if storage were required, such stored water would be subject to all provisions applicable to ICS credits created through extraordinary conservation.

#### D. System Efficiency Projects

A Contractor may make contributions of capital to the Secretary for use in Secretarial projects designed to realize efficiencies that save water that would otherwise be lost from the Colorado River System in the United States. The Secretary in consultation with the States will identify system efficiency projects, terms for capital participation in such projects, and types and amounts of benefits the Secretary would provide in consideration of non-federal capital contributions to system efficiency projects, including a portion of the water saved by the project. Water made available to Contractors by the Secretary would be considered Intentionally Created Surplus. System efficiency projects are only intended to provide temporary water supplies and would not be available for permanent use.

Benefits to the total water available within the Colorado River System in the United States should be substantial, taking into account any benefit provided to any non-federal capital contributor. In those cases in which benefits are provided to a non-federal capital contributor in the form of a portion of the water saved by the system efficiency project, the water provided to the capital contributor should be characterized as Colorado River surplus water intentionally created by the system efficiency project. The ICS credits should be provided to the capital contributor pursuant to its BCPA § 5 surplus contract. The Secretary should first obtain the waiver or forbearance of any other BCPA § 5 surplus contractor(s) that may possess any right to the delivery of the same water, so that the Secretary may deliver it to the capital contributor pursuant to Article II (B)(6) of the Decree. The ICS credits should be provided to the capital contributor on a predetermined schedule of annual deliveries for a period of years as agreed by the Secretary and Contractor. The ICS credits would not be stored, and therefore would not spill from system reservoirs. Delivery of ICS credits during shortage conditions will be determined on a project-by-project basis.

#### E. Introduction and Recovery of Non-Colorado River System Water

The Secretary should develop procedures, in consultation with the States, that would prospectively allow non-Colorado River System water in a Lower Division State to be introduced into, conveyed through, and diverted from system reservoirs, or otherwise through the Colorado River System. The non-Colorado River System water may be introduced either (1) directly from the non-Colorado River System source, or (2) as effluent resulting from use of the non-Colorado River System water in the introducing entity's service area, assuming water quality concerns are adequately addressed by the Contractor introducing the water. This water is in addition to a state's basic apportionment and may be used during declared shortages.

Contractors proposing to introduce, convey and recover such non-Colorado River System water should make sufficient arrangements, contractual or otherwise, with the Secretary so as to guarantee that any such action causes no harm to the Secretary's management of the Colorado River System. Such arrangements would provide that the introduction, conveyance and recovery of such water be done pursuant to appropriate permits or other authorizations as required by state law, that the actual amount of water introduced, conveyed and recovered would be reported to the Secretary on an annual basis, and that no more than 95% of such water introduced will be recovered. The non-Colorado River System water would be intended to be taken on a real-time basis, and hence would not

spill from system reservoirs. However, if storage were required such stored water would be subject to all provisions applicable to ICS created through extraordinary conservation. Any agreements made with the Secretary to introduce and recover this water will survive the termination of the Coordinated Operations of Lakes Powell and Mead.

Weather modification projects should be pursued as a means of augmenting Colorado River System water supplies. However, increases in water supply that result from weather modification projects are not included within the projects defined in this Section and would not create any additional supply for a Contractor or State that engages in a weather modification project.

## **Section 5. Non-Colorado River System Water Exchanges**

Contractors in Arizona, California, or Nevada may secure an additional water supply by funding the development of a non-Colorado River System water supply in one Lower Division State for use in another State by exchange. The new water supply developed would be consumptively used in the State in which it was developed by a Contractor and that Contractor would intentionally reduce its consumptive use of Colorado River water. This would allow the Contractor(s) in the other Lower Division State(s) that provided the funding to consumptively use the Colorado River water that was intentionally unused through an agreement with the Secretary of the Interior. Through the cooperation of the International Boundary and Water Commission, United States and Mexico, similar agreements could be established by which non-Colorado River System water supplies in Mexico could be developed for use in the United States by exchange.

It could be necessary for a State or other lower priority Contractors in the State in which consumptive use was intentionally reduced to agree to forebear their use of such water depending on the then-existing priority system to use of Colorado River water, to avoid a claim against the water being delivered to the Contractor that funded the new water supply. As an alternative to forbearance, an offer by the Contractor developing the non-Colorado River System water to allow the lower priority Contractor to pay the cost of developing a portion or all of the non-Colorado River System water supplies to be developed, would be utilized to protect such a lower priority Contractor's position in the then-existing priority system. A refusal of an offer to pay the cost of developing a portion or all of the non-Colorado River System water supplies to be developed would constitute the lower-priority Contractor's waiver of a right to challenge the exchange.

## **Section 6. Accounting Mechanisms**

The operating alternatives discussed in Sections 4 and 5 will require new or modified Colorado River accounting mechanisms. No specific accounting mechanism to allow these types of operations is proposed for evaluation in Reclamation's current NEPA process. However, the description and evaluation of such accounting mechanisms would provide Contractors with the assurance that if such accounting mechanism were adopted in the Record of Decision, funds spent to propose such an arrangement in the future would not be spent in vain.

**Section 7. Effective Period**

The proposed interim operations will be in effect 30 days from the publication of the Secretary's Record of Decision in the Federal Register. The proposed interim operations will, unless subsequently modified, remain in effect through December 31, 2025 (through preparation of the 2026 AOP), subject to a formal review of their effectiveness beginning no later than 2020.