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COLORADO RIVER WATER USERS ASSOCIATION
1997 Annual Conference
Caesars Palace
Las Vegas, Nevada
Address
by
Bruce Babbitt
Secretary of the Interior
9:30 a.m., December 18, 1997

During each of the past two years I have come before you at your annual conference to review the status of water administration in the Lower Basin and to identify some of the steps that I believe are necessary to achieve sound long-term management of the Colorado River. On each occasion I have emphasized the desirability of consensus among the basin states, and initiatives within the states--and particularly within California--to develop a realistic strategy to assure that the needs of each state can be met without jeopardizing the entitlement of others. I have, in each instance, pledged my cooperation and assistance in these efforts, while stating my readiness to act as necessary to fulfill my responsibilities pursuant to the Law of the River.

I am pleased to be able to report positive action on several fronts. We have taken a major step toward bringing to fruition the interstate transfer by state-authorized entities pursuant to off-stream banking programs in the Lower Basin, as I shall describe in a moment. California has been moving forward in its effort to produce a workable plan that will permit it to live within its Colorado River apportionment. Though much remains to be done, there is measurable progress. The time is now ripe for me to take some initiatives designed to help move the California process along the path on which it has embarked. I shall describe those initiatives shortly, but first I would like to report on some other important Colorado River developments.

It is paradoxical that our current efforts to come to terms with the challenges of scarcity on the River occur during one of the wettest periods in recent history. The 1997 water runoff was 144% of normal, and this autumn has been unusually wet. The flows into Lake Powell during the past few months have run nearly two times normal, and the Colorado River reservoir system is at its highest level since 1986. As a result releases from Flaming Gorge, Aspinall

and Glen Canyon reservoirs have been much above normal this fall, and flood control releases at non-damaging levels from Hoover Dam are projected early in 1998.

El Niño is very much on everyone's mind, and we are engaged in detailed and ongoing efforts to assure that we schedule releases effectively in order to reach proper Reservoir elevations. In that way we can better prepare for the possibility of increased runoff from a heavy late Spring rain or snow. Channel work is nearing completion in the Yuma area and in Mexico to prepare for higher than normal flows, and emergency action plans and table-top exercises have been completed for Hoover, Davis and Parker Dams. We are working diligently to handle anticipated high flows of water safely and effectively.

In light of the high level of system storage, I signed the 1998 Annual Operating Plan for the Colorado River Reservoirs, declaring a surplus which allows Colorado River water in excess of 7.5 million acre-feet to be used in the Lower Basin. A surplus for Mexico has also been determined and the International Boundary and Water Commission has informed Mexico that they may schedule an additional 200,000 acre-feet of use, pursuant to our Treaty. Depletions in the Lower Basin are expected to be about 8.2 million acre-feet in 1998, which presents no problem during a year like this one, but underlines why we are concerned that preparations be made for less abundant periods that are unavoidably before us.

Last year I noted that I had initiated an adaptive management process for future operation of Glen Canyon Dam to enable us to operate the dam so as to balance a variety of interests. We were able to show the benefits of that process recently when heavy rains in the Paria River basin deposited large quantities of sediment in the main channel of the Colorado River. A decision was made to run a test flow at full powerplant capacity to redeposit the sediment, and we did so successfully in early November. These are precisely the sort of innovative steps that adaptive management permits and encourages.

We are working together with the States, Tribes, environmental organizations and other interested stakeholders on the Lower Colorado River Multi-Species Conservation Program. The program plan is to provide protection for both currently listed threatened and endangered species and potentially listed species, along the Lower Colorado River. The plan is designed to address both the needs of the States for water and power production, and the consultation

needs of the Bureau of Reclamation for River operations and maintenance.

This proposed program underscores our commitment to the restoration of threatened and endangered species, while addressing the water and power needs of the basin states. It is a cooperative endeavor that holds significant promise, and I applaud the Basin States for their commitment to work with us. It is also noteworthy as another demonstration of the workability of the basic requirements of the existing Endangered Species Act, when administered with sensitivity and imagination.

We are also turning our attention to the environmental challenges faced by the Salton Sea. I will be visiting the Salton Sea later this afternoon and tomorrow, and I am hopeful that we will soon be addressing its problems in cooperation with other interested parties.

I am pleased to be able to report positive developments in each of these areas. We are also progressing on that most stubbornly recalcitrant set of issues, water supply management in the Lower Basin. I would now like to turn to that subject.

OFFSTREAM STORAGE REGULATION

In my address last December, I said "I am instructing the Bureau of Reclamation to initiate a rulemaking process to develop water management regulations for the Lower Basin." I am pleased to announce that this process is now well underway. By the end of this month, the Bureau of Reclamation will publish in the Federal Register a proposed rule titled "Offstream Storage of Colorado River Water and Interstate Redemption or Transfer of Storage Credits in the Lower Division States". The proposed rule permits the States of Arizona, Nevada, and California to store Colorado River Water offstream for interstate use within the Lower Division States. It creates a procedural framework through which state authorized entities within the Lower Division can develop storage credits associated with Colorado River water that is stored offstream, and then use or transfer these credits within the Lower Division. The preamble to this Rule will note the importance of providing an opportunity for Indian tribes to participate in such storage and transfer activities. We will be receiving comments on the proposed rule during the 60 days following its publication.

While the opportunities created by this rule will be available to each of the Lower Division states, the rule should be of particular assistance to Arizona, which has enacted an offstream banking program, and should

prove especially helpful to Nevada as it prepares to meet its needs during the early years of the next century.

When this rule becomes final, we will have in place one significant element of the program that is needed to facilitate water transfers in the Lower Basin. It is, however, only one piece of the puzzle, and much remains to be done, particularly to meet California's long term requirement to bring its demand in line with available supply.

BENEFICIAL USE AND TRANSFERS IN CALIFORNIA

As I have emphasized on several occasions, market based transfers within California must be founded on a baseline quantum of beneficially-used water from which savings can be made. Thus far, efforts among the California agricultural agencies to achieve an agreed-upon quantification of entitlements from the Colorado River, and to settle long-standing differences about beneficial use, particularly within the Imperial Irrigation District, have been unsuccessful.

I want to reiterate the concern I expressed last year about California uses in excess of 4.4 million-acre feet. There is increased use in both the Palo Verde and Imperial Irrigation Districts. Though the agricultural entitlement under the first three priorities is only 3.85 million acre-feet per year, the agricultural districts have been using about 4 million acre-feet during each of the past several years. Indeed, except for the unusual years of 1992 and 1993, Imperial's diversions of Colorado River water have been steadily increasing over the past ten years. IID's diversions during the past two years have exceeded its long term average use by about 200,000 acre-feet per year, and that is in addition to some 106,000 acre-feet it is obliged to conserve under a transfer agreement with the Met.

This is a disturbing trend, and it is in tension with California's need to bring its use within its entitlement. I am aware of no convincing reason why the agricultural districts should be exceeding their 3.85 million acre-foot allotment. This year, for the first time, the Bureau of Reclamation declined to approve the initial IID diversion requested. In light of these developments, I am instructing the Bureau of Reclamation to scrutinize very carefully requests for deliveries in excess of long term averages by districts that are likely to result in total deliveries to the holders of the first three priorities that exceeds the 3.85 million acre-foot entitlement, and to report to me the implications of such requests for compliance with the statutory beneficial use limitation.

As steps are taken looking to ag-to-urban transfers of Colorado River water pursuant to the emerging California Plan, it becomes increasingly important that both beneficial use and quantification issues within the agricultural sector be resolved. So long as districts do not have fixed rights within the priorities of the seven party agreement, it becomes difficult if not impossible to ensure that water transfers do not end up increasing demand on the Colorado River. Moreover, if the only water transferred is water that otherwise would be wasted or not beneficially used, no net benefit to the River would result. For these reasons, transfers must be founded on a baseline quantum of beneficially-used water from which savings can be made.

I have repeatedly encouraged efforts by the agricultural districts to achieve a negotiated quantification, and I want emphatically to reiterate that message today. Alternatively, should a negotiated settlement not be achieved prior to the time that a district seeks required Secretarial approval for a transfer, I shall determine, as a precondition to approval, the maximum quantum of water out of which a transfer can be made.

I am aware that a draft agreement for transfer of conserved water between the Imperial Irrigation District and the San Diego County Water Authority was made public last week. Such agreements are a positive and important step in moving the emerging California Plan toward implementation. Of course we have not yet studied the draft and I cannot comment on any of its specific provisions. I do want to emphasize, however, that the policy on transfer approvals that I have just described will be applied to agreements such as that proposed between IID and the San Diego County Water Authority.

SURPLUS CRITERIA

I said last year that I would direct the Bureau of Reclamation to continue to operate under current guidelines for annual decisions regarding surplus determinations in order to give California an opportunity to put in place a realistic strategy to assure that it will be able to reduce its use when necessary. We are not there yet. The draft California "4.4 Plan" that was issued in October of this year is, however, a necessary and desirable step. The Plan properly recognizes the need for programs that will allow California to meet its Colorado River water needs from within its annual apportionment of Colorado River water of 4.4 million acre-feet when neither surplus water nor apportioned but unused water is available.

While the Plan is literally a blank in some crucial specifics--it neither specifies a date by which California's uses of Colorado River water will be reduced, nor does it state the amount of reduction to be achieved by that unspecified date--it does identify the internal sources from which about one-half of the present excess demand is expected to be met: 106,000 acre-feet/year from the existing IID/MWD conservation agreement; 200,000 acre-feet/year from a proposed IID/San Diego (SDCWA) transfer; and some 93,000 acre-feet/year through seepage recovery from the All-American and Coachella Canals. These are promising sources (though they present some as-yet unanswered questions), and they appear to provide the base for a realistic, and implementable, California Plan. I was also particularly pleased to see a provision for resolution of the San Luis Rey Indian Water Rights Settlement, which I consider an essential element of any strategy, as a component of the Plan.

However, a number of very important problems remain to be resolved, not the least among them a resolution of beneficial use and quantification issues within the agricultural districts so that transfers can go forward, and arrangements for transportation of transferred water through the Met's and San Diego's aqueduct (wheeling).

As I understand it, this proposal to reduce demand by about 400,000 acre-feet/year comprises the first of two phases of the evolving California Plan. I noted last year that I would defer the development of guidelines implementing surplus criteria in order to give California an opportunity to put into place a realistic strategy for meeting its needs. Phase I of the draft California Plan outlines the elements of such a strategy. When further steps are taken so that firm commitments are in place for implementation of this phase of the Plan, including the execution of binding contracts, agreed-on arrangements for transportation, and resolution of quantification and beneficial use issues, I will adopt surplus criteria that will permit California to continue to meet its beneficial use needs from the Colorado River. I anticipate that these criteria will be effective for a specified number of years, at which time they will expire of their own terms, and will be reviewed before they are renewed, in order to ensure that California continues to make reasonable forward progress in implementation of its strategic plan.

CONCLUSION

The rate of change in matters affecting the Colorado River can sometimes be frustratingly slow, but I believe

important progress is being made. I acknowledge the efforts made by California to shape a strategy for living within its entitlement which is helping to set us in the right direction, and I appreciate the constructive engagement of the other Basin States in that effort. We are setting a precedent of fruitful federal-state cooperation on the Colorado River. As my comments today should make clear, I also believe the time has come for me as River Master to play a more active role.

Much remains to be done, and I know that it cannot all be done in the next year or two. There are additional opportunities for marketing across state lines, and unfinished business relating to Tribal water rights. I reiterate my commitment to working within the Law of the River, to an insistence on prudent, non-wasteful use, and on the benefits of imaginative uses of marketing to implement voluntary, willing-buyer, willing-seller transactions. If we keep at it, we will be able to assure that every need will be addressed and that no entitlement holder, or state, will be disadvantaged.

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