

DELIVERY AGREEMENT

This Delivery Agreement is entered into this 13th day of December 2007 between the UNITED STATES OF AMERICA, the SOUTHERN NEVADA WATER AUTHORITY (SNWA), and the COLORADO RIVER COMMISSION OF NEVADA (CRCN), (each referred to individually as “Party” or, collectively, as “Parties”). The Parties hereby agree as follows:

I. Recitals.

- A. The Secretary of the Interior (Secretary) issued a Record of Decision (ROD) for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead on December 13, 2007, which implements Interim Guidelines for the Operation of Lake Powell and Lake Mead (Guidelines).
- B. The Guidelines establish criteria for the development and delivery of Intentionally Created Surplus (ICS) and Developed Shortage Supply (DSS).
- C. SNWA is a Nevada joint powers agency and political subdivision of the State of Nevada, created by agreement dated July 25, 1991, as amended November 17, 1994, and January 1, 1996, pursuant to N.R.S. §§277.074 and 277.120. SNWA is authorized by N.R.S. §538.186 to enter into this Delivery Agreement. SNWA is an existing Contractor and holds an entitlement to the delivery of Colorado River water under Contract No. 2-07-30-W0266 dated March 2, 1992, as amended and restated November 17, 1994.
- D. CRCN is an agency of the State of Nevada, authorized generally by N.R.S. §§538.041 and 538.251 and authorized by N.R.S. §538.161 (6), (7) to enter into this Delivery Agreement. The CRCN, in furtherance of the State of Nevada’s responsibility to promote the health and welfare of its people in Colorado River matters, makes this Delivery Agreement to supplement the supply of water in the Colorado River which is available for use in Nevada, augment the waters of the Colorado River and facilitate the more flexible operation of dams and facilities by the Secretary.
- E. CRCN and SNWA have secured the forbearance of certain Contractors through the execution of a Forbearance Agreement dated December 13, 2007, attached hereto as Exhibit “A,” in which under specific and limited circumstances the Contractors forbear the exercise of certain rights to Colorado River water otherwise available to them under the Consolidated Decree in Arizona v. California and under contracts entered into under section 5 of the Boulder Canyon Project Act of 1928.

II. Authority.

The Secretary is authorized under the Reclamation Act of 1902 and all acts amendatory thereof and supplementary thereto, including in particular section 5 of the Boulder Canyon Project Act of 1928, to enter into contracts for the delivery of Colorado River water.

III. Definitions.

Defined terms appear in this Delivery Agreement with initial capitalization and shall have the same meaning as in the Guidelines; provided, however:

- A. "Drop 2 Funding Agreement" shall mean the Agreement Among the United States of America, through the Department of the Interior, Bureau of Reclamation; the Colorado River Commission of Nevada; and the Southern Nevada Water Authority for the Funding and Construction of the Lower Colorado River Drop 2 Storage Reservoir Project dated December 13, 2007.
- B. "Guidelines" shall mean the express language of the Interim Guidelines for Operation of Lake Powell and Lake Mead in the Record of Decision issued by the Secretary on December 13, 2007.

IV. Term.

This Delivery Agreement shall become effective upon execution by the Parties and shall remain in effect until such time as all deliveries of ICS and DSS permissible under the terms of the Guidelines and this Delivery Agreement have occurred.

V. Relationship to Guidelines.

The Parties to this Delivery Agreement expressly acknowledge that this Delivery Agreement will be administered in compliance with the terms of the Guidelines. Specific reference in this Delivery Agreement to particular sections of the Guidelines shall not render inapplicable to the Parties those sections not specifically referred to herein.

VI. Approval of Plan.

- A. To the extent SNWA desires to create ICS, SNWA shall submit a plan to create ICS, or a modification to a previously approved plan to create ICS, to the Secretary in accordance with section 3.B.1 of the Guidelines. Under this Delivery Agreement, Tributary Conservation ICS or Imported ICS, for which plans have been approved under this article VI, will be converted to Extraordinary Conservation ICS, in accordance with sections 3.A.1.f and 3.A.1.g of the Guidelines, without submission of an Extraordinary Conservation ICS plan to the

Secretary, and thereafter shall be subject to all provisions applicable to Extraordinary Conservation ICS.

1. For Tributary Conservation ICS to be created as provided in the Virgin and Muddy Rivers Tributary Conservation ICS Project, Exhibit A to the Forbearance Agreement, the Secretary shall approve a plan or modification which meets the requirements of sections 3.A.2 and 3.B.1 of the Guidelines and Exhibit A to the Forbearance Agreement.
 2. For System Efficiency ICS to be created for the benefit of SNWA as provided in the Drop 2 Reservoir System Efficiency Project, Exhibit C to the Forbearance Agreement, the Secretary has determined that, consistent with Pub. L. No. 109-432, 120 Stat. 2922, §396, the Drop 2 Funding Agreement constitutes a valid multi-year plan for creation of System Efficiency ICS under sections 3.A.3 and 3.B.1 of the Guidelines, for the Interim Period as provided in section 8 of the Guidelines, in an amount not to exceed 656,667 acre-feet of which the amount available to SNWA will be determined in accordance with the Drop 2 Funding Agreement.
 3. For Imported ICS to be created as provided in the Coyote Spring Valley Groundwater Imported ICS Project, Exhibit B to the Forbearance Agreement, the Secretary shall approve a plan or modification which meets the requirements of sections 3.A.4 and 3.B.1 of the Guidelines and Exhibit B to the Forbearance Agreement.
- B. To the extent SNWA desires to create DSS, SNWA shall submit a plan to create DSS, or a modification to a previously approved plan to create DSS, to the Secretary in accordance with section 4.B.1 of the Guidelines. DSS may only be created by a project that is approved by the Secretary for creation prior to the Secretary determining a Shortage Condition.
1. For Tributary Conservation DSS to be created as provided in the Virgin and Muddy Rivers Tributary Conservation ICS Project, Exhibit A to the Forbearance Agreement, the Secretary shall approve a plan or modification which meets the requirements of sections 4.A.1 and 4.B.1 of the Guidelines.
 2. For Imported DSS to be created as provided in the Coyote Spring Valley Groundwater Imported ICS Project, Exhibit B to the Forbearance Agreement, the Secretary shall approve a plan or modification which meets the requirements of sections 4.A.2 and 4.B.1 of the Guidelines.
- C. SNWA may combine plans required to be submitted under this article VI, as for example combining a plan to create Tributary Conservation ICS with a plan to create Tributary Conservation DSS; provided, however that the Guideline requirements for each type of plan are fully addressed in the combined plan.

- D. To the extent the Secretary determines that a plan or modification submitted by SNWA in accordance with this article VI does not meet the requirements of the Guidelines or the applicable exhibit to the Forbearance Agreement, the Secretary shall, in writing, inform SNWA as to which matters were determined not to meet the requirements of these sections of the Guidelines or the applicable exhibit to the Forbearance Agreement and permit SNWA to resubmit the plan or modification.
- E. The Secretary's commitment in this article VI to approve in accordance with sections 3.B.1 and 4.B.1 of the Guidelines a plan or modification which meets the requirements specified in this article VI is subject to such environmental compliance as may be required.

VII. Certification and Verification of ICS and DSS.

- A. SNWA shall submit a Certification Report to the Secretary for each type of ICS and DSS created, in accordance with sections 3.D.1 and 4.D.1 of the Guidelines.
- B. The Secretary shall verify the information in the Certification Reports submitted by SNWA for ICS or DSS, in accordance with sections 3.D.2 or 4.D.2 of the Guidelines. If the Secretary determines that insufficient information has been provided in the Certification Report to verify the quantity of ICS or DSS created or to verify that the creation was consistent with this Delivery Agreement or, for ICS, to verify that the creation was consistent with the corresponding exhibit to the Forbearance Agreement, the Secretary shall, in writing, request additional information from SNWA.
- C. For System Efficiency ICS to be created for the benefit of SNWA as provided in the Drop 2 Reservoir System Efficiency Project, Exhibit C to the Forbearance Agreement, the Secretary has determined that, consistent with Pub. L. No. 109-432, 120 Stat. 2922, §396, the Drop 2 Funding Agreement constitutes a verified Certification Report under sections 3.D.1 and 3.D.2 of the Guidelines for System Efficiency ICS in an amount not to exceed 656,667 acre-feet, of which the amount available to SNWA will be determined in accordance with the Drop 2 Funding Agreement.
- D. After review of a Certification Report submitted by SNWA for ICS or DSS, including the review of such additional information as has been requested by the Secretary and provided by SNWA, the Secretary shall provide a final written decision to SNWA, as provided in sections 3.D.2 and 4.D.2 of the Guidelines, which may be appealed by SNWA as provided in sections 3.D.2 and 4.D.2 of the Guidelines.

VIII. Delivery of ICS and DSS.

- A. SNWA shall neither order nor accept delivery of ICS or DSS except in accordance with the terms of the Guidelines, this Delivery Agreement, and, for ICS, the terms of the Forbearance Agreement.
- B. SNWA's existing entitlement to Colorado River water shall remain in full force and effect and with this Delivery Agreement shall govern the delivery of ICS and DSS to SNWA.
- C. ICS. The Secretary shall deliver to SNWA under Contract No. 2-07-30-W0266 dated March 2, 1992, as amended and restated November 17, 1994, the ICS created under the terms of this Delivery Agreement, including any Extraordinary Conservation ICS created by conversion of Tributary Conservation ICS and/or Imported ICS pursuant to section VI.A of this Delivery Agreement, and requested by SNWA, in accordance with section 3.C of the Guidelines and the Forbearance Agreement; provided, however:
 1. the Secretary must have determined an ICS Surplus Condition applicable to the Year of the delivery, in accordance with sections 2.B.5 and 3.C.2 of the Guidelines;
 2. the Secretary must have verified the creation of the requested ICS in accordance with section 3.D.2 of the Guidelines, provided, however, that for System Efficiency ICS verification is accomplished by article VII.C of this Delivery Agreement;
 3. the ICS delivery must be in accordance with 43 C.F.R. Part 417; and
 4. nothing in this Delivery Agreement modifies, or is intended to modify, the rights of any person or entity that is not a party to the Forbearance Agreement.
- D. DSS. The Secretary shall deliver to SNWA under Contract No. 2-07-30-W0266 dated March 2, 1992, as amended and restated November 17, 1994, the DSS created under the terms of this Delivery Agreement and requested by SNWA, in accordance with section 4.C of the Guidelines; provided, however:
 1. the Secretary must have determined a Shortage Condition applicable to the Year of delivery, in accordance with sections 2.D and 4.C.2 of the Guidelines;
 2. the Secretary must have verified the creation of the requested DSS in accordance with section 4.D.2; and
 3. the delivery must be in accordance with 43 C.F.R. Part 417.

IX. Accounting for ICS and DSS.

- A. ICS. The Secretary shall incorporate into the Decree Accounting Report a separate ICS Account for SNWA. The account shall separately identify and report each type of ICS created by SNWA in the manner provided in section 3.D.3 of the Guidelines. The account shall further reflect any reductions for payback obligations, in accordance with section 3.C.7 of the Guidelines, and shall reflect excess deliveries of ICS as an inadvertent overrun until repaid, in accordance with section 3.C.8 of the Guidelines.
- B. DSS. The Secretary shall incorporate into the Decree Accounting Report a separate DSS Account for SNWA. The account shall separately identify and report each type of DSS created by SNWA in the manner provided in section 4.D.3 of the Guidelines. The account shall further reflect any reductions for payback obligations, in accordance with section 4.C.5, and shall reflect excess deliveries of DSS as an inadvertent overrun until repaid, in accordance with section 4.C.6 of the Guidelines.

X. Other Terms.

- A. Signatories to the Forbearance Agreement are intended third-party beneficiaries of this Delivery Agreement solely for the purposes of ensuring compliance with the Guidelines and the Forbearance Agreement and enforcing the provisions of this Delivery Agreement that require compliance and/or consistency with the Guidelines and the Forbearance Agreement. Notwithstanding anything to the contrary contained in this paragraph, no third-party shall accrue any right to ICS or DSS as a result of the third-party beneficiary status conferred in this paragraph.
- B. In accordance with sections 3.C.10 and 4.C.8 of the Guidelines, the books and records of SNWA relating to the creation of ICS or DSS shall be open to inspection by any Party, Contractor or Basin State.
- C. This Delivery Agreement is subject to and controlled by the Colorado River Compact of 1922.
- D. No member of or Delegate to Congress, Resident Commissioner, or official of any Party shall benefit from this Delivery Agreement other than as a water user or landowner in the same manner as other water users or landowners.
- E. This Delivery Agreement shall not be deemed to be a new or amended contract for the purpose of section 203(a) of the Reclamation Reform Act of 1982.
- F. Each Party to this Delivery Agreement represents that the person executing this Delivery Agreement on behalf of such Party has full power and authority to do so, and that his/her signature is legally sufficient to bind the Party on whose behalf he/she is signing.

G. The expenditure or advance of any money or the performance of any obligation of the United States under this Delivery Agreement shall be contingent on appropriation or allotment of funds.

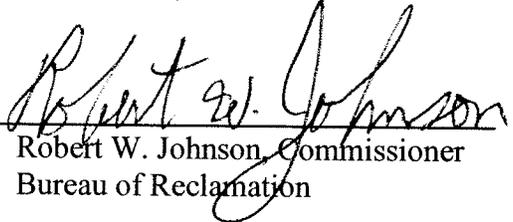
H. Each Party shall comply with all applicable federal or state laws relating to equal opportunity and non-discrimination.

IN WITNESS WHEREOF, the Parties hereto have executed this Delivery Agreement No. 07-XX-30-W0520 the day and year first written above.

Approved as to legal sufficiency:

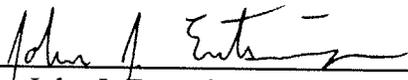
THE UNITED STATES OF AMERICA

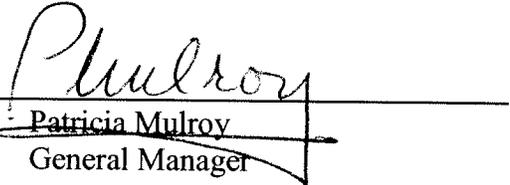
By: 
Katherine Ott Verburg
Field Solicitor

By: 
Robert W. Johnson, Commissioner
Bureau of Reclamation

Approved as to form:

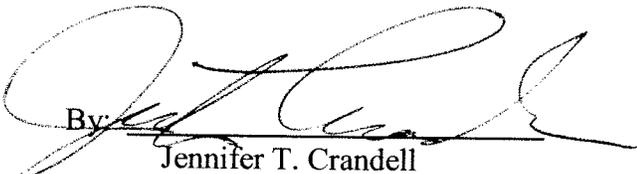
**SOUTHERN NEVADA WATER
AUTHORITY**

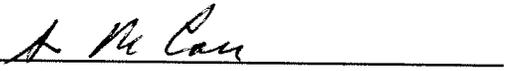
By: 
John J. Entsminger
Deputy General Counsel

By: 
Patricia Mulroy
General Manager

Approved as to form:

**COLORADO RIVER COMMISSION
OF NEVADA**

By: 
Jennifer T. Crandell
Senior Deputy Attorney General

By: 
George M. Caan, P.E.
Executive Director