

# STATE OF COLORADO

## Colorado Water Conservation Board

### Department of Natural Resources

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Received  
 August 1, 2005  
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July 29, 2005

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Bill Owens  
 Governor

Russell George  
 Executive Director

Rod Koharik  
 CWCB Director

Rick Brown  
 Acting Deputy Director

Re: BLM EIS SNWA Virgin/Muddy River Project

Dear Mr. Johnson:

Thank you for the opportunity to comment on the proposed, "EIS for the Virgin and Muddy Rivers Surface Water Development Project" pursuant to the Federal Register notice dated April 11, 2005.

The Colorado Water Conservation Board (CWCB) is the state agency charged with promoting, protecting, conserving and developing Colorado's water resources in order to secure the greatest utilization of those resources for the benefit of present and future generations, and to minimize the risk of flood damage and related economic losses. The CWCB has a long association with activities concerning the Colorado River Compact and the "Law of the River." The Colorado Water Conservation Board, for the State of Colorado, hereby submits the following comments for consideration in the development of the EIS for the Southern Nevada Water Authority's (SNWA) "Virgin and Muddy Rivers Surface Water Development Project."

The State of Colorado is signatory to the Colorado River Compact and the Upper Colorado River Compact. The proposed action by the SNWA to divert surface water from the Virgin River and the Muddy River before that water reaches Lake Mead has potential legal, social and environmental implications throughout the entire Colorado River Basin. An EIS narrowly focused upon this project's pipeline and reservoir right-of-way acquisition will fail to take into account the direct and indirect consequences of the proposed action. Given the substantial investment the SNWA will make in this project, these impacts should be considered in a manner that recognizes the possible consequences without involving the BLM in any interpretations of the Colorado River Compact among the seven Colorado River Basin States and related issues associated with the "Law of the River."

On August 20, 2004 the State of Colorado expressed general support for the right-of-way provisions specified in Title III of S. 2532 but took no position on the balance of the bill. In that letter of support we recognized that the current prolonged drought made achieving significant progress towards more efficient utilization and expansion of water resources in certain areas critical. While we believe Nevada can meet a significant portion of its future water supply needs

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from its apportioned share of the Colorado River, it is clear that Nevada will be unable to rely solely on the Colorado River during prolonged droughts or to meet its future demands. However, Colorado also believes that the Lower Basin, as a whole, has developed more "Colorado River System" water than it is legally entitled to pursuant to the Colorado River Compact and we therefore expressed significant concerns about the development of any additional surface water supplies from the Colorado River or its tributaries in the Lower Basin. Colorado did support the development of non-tributary groundwater supplies in Nevada and we believe the development of non-tributary groundwater is critical to meeting the long-term water supplies needs for Nevada. Towards that end we urged Nevada to proceed with construction of the infrastructure necessary to develop and deliver those groundwater supplies. We continue to support the development of Nevada's non-tributary groundwater resources, but remain very concerned about the development of any additional surface water supplies at this time.

In addition to considering the "no action" alternative, and given this background, the EIS team for this project needs to consider the following:

1. Consideration should be given to the viability of the project if it were to be developed solely on non-tributary groundwater resources available to Nevada.
2. The EIS team should consider the potential for augmentation of Colorado River System water through desalination, weather modification and other means that could add wet water to the Colorado River Basin. Such projects are needed in order for Colorado to support the proposed project. Absent such augmentation or reductions in the overall use by the Lower Basin, Colorado has significant concerns with the development of the proposed project. The project will diminish flows into Lake Mead by over 100,000 acre-feet per year. This is Colorado River System water and is subject to the terms of the Colorado River Compact of 1922. Diminished inflow to Lake Mead is detrimental to Upper Basin interests because it increases the risk that Upper Basin uses will be curtailed. It may also adversely impact power generation.
3. The EIS should consider the effects of reduced inflow to Lake Mead and the Colorado River on the salinity of the Colorado River. Would these reductions adversely impact the ability of the U.S. to comply with Minute 242 to the Mexican Treaty?

Colorado would note that we are in substantial agreement with the comments submitted on behalf of Wyoming. Again, thanks very much for the opportunity to comment on this important EIS.

Sincerely,



Rod Kuharich  
Director

RK/drs

cc: Southern Nevada Water Authority  
Colorado Congressional Delegation  
Colorado Water Conservation Board Members  
Seven Colorado River Basin State Representatives

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