

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated  
Operations for Lake Powell and Lake Mead

Friday, April 11, 2008

AGENCY: Bureau of Reclamation, Interior.

**\*19873 ACTION:** Notice of Availability of the Record of Decision for the adoption of Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead.

**SUMMARY:** The Department of the Interior, acting through the Bureau of Reclamation, published a Federal Register notice on November 2, 2007 ([72 FR 62272](#)) which informed the public of the availability of the final environmental impact statement on the proposed adoption of specific Colorado River Lower Basin shortage guidelines and coordinated reservoir management strategies to address the operations of Lake Powell and Lake Mead, particularly under low reservoir conditions, through 2026. We are now notifying the public that the Secretary of the Interior signed the Record of Decision (ROD) on December 13, 2007. The text of the ROD is found below.

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The ROD is electronically available on Reclamation's project Web site at: <http://www.usbr.gov/lc/region/programs/strategies.html>. Alternatively, a compact disc or hard copy is available upon written request to: Regional Director, Lower Colorado Region, Bureau of Reclamation, Attention: BCOO-1005, P.O. Box 61470, Boulder City, Nevada 89006-1470; fax at (702) 293-8156; or e-mail at [strategies@lc.usbr.gov](mailto:strategies@lc.usbr.gov).

Dated: March 28, 2008.

Dirk Kempthorne,

Secretary, Department of the Interior.

Record of Decision; Colorado River Interim Guidelines for Lower Basin Shortages

and the Coordinated Operations for Lake Powell and Lake Mead (December 2007)

Recommending Official: Robert Johnson, Commissioner, Bureau of Reclamation, December 13, 2007.

Approved: Dirk Kempthorne, Secretary of the Department of the Interior, December 13, 2007.

Record of Decision; Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead Final Environmental Impact Statement (November 2007)

## I. Introduction

The Colorado River Basin (Basin) is in the eighth year of drought--the worst eight-year period in over a century of continuous recordkeeping. Reservoir elevations have declined over this period and the duration of this ongoing, historic drought is unknown. This is the first long-term drought in the modern history of the Colorado River, although climate experts and scientists suggest droughts of this severity have occurred in the past and are likely to occur in the future. The Colorado River provides water to two nations, and to users within seven western states. With over 27 million people relying on the Colorado River for drinking water in the United States, and over 3.5 million acres of farmland in production in the Basin, the Colorado River is the single most important natural resource in the Southwest.

The Secretary of the Interior (Secretary) has a unique role on the Colorado River--charged with management of a vast system of dams and reservoirs that have provided water for the development of the Southwest.

Under these conditions, conflict over water is unsurprising and anticipated. Declining reservoir levels in the Basin led to interstate and inter-basin tensions. As the agency charged with management of the Colorado River, the Department of the Interior (Department) had not yet developed operational rules for the full range of operations at Lake Powell and Lake Mead because these types of low-reservoir conditions had simply not yet occurred.

Against this background, at the direction of the Secretary, the Department initiated a public process in May of 2005 to develop additional operational guidelines and tools to meet the challenges of the drought in the Basin. While water storage in the massive reservoirs afforded great protection against the drought, the Department set a goal to have detailed, objective operational tools in place by the end of 2007 in order to be ready to make informed operational decisions if the reservoirs continued to decline.

During the public process, a unique and remarkable consensus emerged in the basin among stakeholders including the Governor's representatives of the seven Colorado

River Basin States (Basin States). This consensus had a number of common themes: encourage conservation, plan for shortages, implement closer coordination of operations of Lake Powell and Lake Mead, preserve flexibility to deal with further challenges such as climate change and deepening drought, implement operational rules for a long--but not permanent--period in order to gain valuable operating experience, and continue to have the federal government facilitate--but not dictate--informed decision-making in the Basin.

Today, this Record of Decision (ROD) constitutes the Department's final decision after facilitating, analyzing, and considering public input over the past two and one-half years, during which the ongoing drought continued to focus nationwide attention on the Basin. A broad range of considerations have been analyzed, involving water supply, environmental protection, hydropower production, and recreation--all benefits that flow from the management of the Colorado River.

This document is the ROD of the Department of the Interior, regarding the Preferred Alternative for Colorado River **\*19874** Interim Guidelines for Lower Basin Shortages and Coordinated Operations of Lake Powell and Lake Mead (Guidelines). The Secretary is vested with the responsibility of managing the mainstream waters of the lower Colorado River pursuant to federal law. This responsibility is carried out consistent with applicable federal law.

The Bureau of Reclamation (Reclamation), the agency that is designated to act on the Secretary's behalf with respect to these matters, is the lead federal agency for the purposes of the National Environmental Policy Act. The Final Environmental Impact Statement--Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead, dated October 2007 (FES-07-37) (Final EIS), was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality's (CEQ's) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] parts 1500 through 1508), Department of the Interior Policies, and Reclamation's NEPA Handbook. The Final EIS was filed with the Environmental Protection Agency (EPA) on October 26, 2007 and noticed by [EPA \(72 FR 62229\)](#) and Reclamation ([72 FR 62272](#)) in the Federal Register on November 2, 2007.

The Final EIS was prepared by Reclamation to address the formulation and evaluation of specific interim guidelines for shortage determinations and coordinated reservoir operations, and to identify the potential environmental effects of implementing such guidelines. The Final EIS addresses the environmental issues associated with, and analyzes the environmental consequences of various alternatives for specific interim guidelines. The alternatives addressed in the Final EIS are those Reclamation determined would meet the purpose of and need for the federal action and represented a broad range of the most reasonable alternatives.

The Bureau of Indian Affairs (BIA), Fish and Wildlife Service (FWS), National Park Service (NPS), Western Area Power Administration (Western) and the United

States Section of the International Boundary and Water Commission (USIBWC) are co-operating agencies for purposes of assisting with the environmental analysis in the Final EIS.

The BIA has responsibility for the administration and management of lands held in trust by the United States for American Indians (Indian) and Indian tribes located within the Basin. Developing forestlands, leasing assets on these lands, directing agricultural programs, protecting water and land rights, developing and maintaining infrastructure, and economic development are all part of the BIA's responsibility.

FWS manages four national wildlife refuges along the Colorado River. Among its many other key functions, the FWS administers and implements federal wildlife laws, protects endangered species, manages migratory birds, restores nationally significant fisheries, conserves and restores wildlife habitat such as wetlands, and assists foreign governments with international conservation efforts.

The NPS administers areas of national significance along the Colorado River, including Glen Canyon National Recreation Area, Grand Canyon National Park, and Lake Mead National Recreation Area. The NPS conserves natural and cultural resources and administers visitor use, and also grants and administers concessions for the operation of marinas and other recreation facilities at Lake Powell and Lake Mead, as well as concessions' operations along the Colorado River between Glen Canyon Dam and Lake Mead.

Western markets and transmits power generated from the various hydropower plants located within the Basin operated by Reclamation. Western customers include municipalities, cooperatives, public utility and irrigation districts, federal and state agencies, investor-owned utilities, and Indian tribes located throughout the Basin.

The USIBWC is the United States component of a bi-national organization responsible for administration of the provisions of the February 3, 1944 Treaty between the United States and Mexico Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande (1944 Treaty), which includes the Colorado River waters allotted to Mexico, protection of lands along the Colorado River from floods by levee and floodway construction projects, resolution of international boundary water sanitation and other water quality problems, and preservation of the Colorado River as the international boundary. The International Boundary and Water Commission (IBWC) consists of the United States Section and the Mexican Section, which have their headquarters in the adjoining cities of El Paso, Texas and Ciudad Juarez, Chihuahua, respectively.

## II. Decision

The recommendation is the approval of the following federal action: The adoption of specific interim guidelines for Lower Basin shortages and coordinated opera-

tions of Lake Powell and Lake Mead, as provided below in Section XI. These interim Guidelines are based upon the Preferred Alternative analyzed in the Final EIS, and include several operational refinements as a result of public input, described below in Section VII. The interim Guidelines would be used each year by the Department in implementing the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Long-Range Operating Criteria or Operating Criteria or LROC), through issuance of the Annual Operating Plan for Colorado River Reservoirs (AOP). The Guidelines would remain in effect for determinations to be made through 2025 regarding water supply and reservoir operating decisions through 2026, as provided below in Section 8 of the Guidelines.

The Preferred Alternative proposes:

- Discrete levels of shortage volumes associated with Lake Mead elevations to conserve reservoir storage and provide water users and managers in the Lower Basin with greater certainty to know when, and by how much, water deliveries will be reduced in drought and other low reservoir conditions;
- A coordinated operation of Lake Powell and Lake Mead determined by specified reservoir conditions that would minimize shortages in the Lower Basin and avoid the risk of curtailments in the Upper Basin;
- A mechanism to encourage and account for augmentation and conservation of water supplies, referred to as Intentionally Created Surplus (ICS), that would minimize the likelihood and severity of potential future shortages; and
- The modification and extension of the [Interim Surplus Guidelines \(66 Fed. Reg. 7772, Jan 25, 2001\)](#) (ISG) through 2026.

### III. Background

The Secretary, acting through Reclamation, is responsible for water management throughout the western United States. Reclamation's authority is limited throughout the west by the limiting provisions of Reclamation law, beginning with the Reclamation Act of 1902.

The Secretary also has a broader and unique legal role as he manages the lower Colorado River system in **\*19875** accordance with federal law, including the Boulder Canyon Project Act of 1928, the 1963 Decision of the U.S. Supreme Court in *Arizona v. California*, the 2006 Consolidated Decree of the U.S. Supreme Court in *Arizona v. California* (Consolidated Decree), the Colorado River Basin Project Act of 1968 (CRBPA), the LROC, and the Grand Canyon Protection Act of 1992, and other applicable provisions of federal law. Within this legal framework, the Secretary makes annual determinations regarding the availability of water from Lake Mead by considering various factors, including the amount of water in system storage and predictions for natural runoff. The CRBPA directed the Secretary to propose and adopt

The United States delivers an annual allotment of Colorado River water to Mexico pursuant to the treaty between the United States of America and Mexico relating to the utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed February 3, 1944, and its supplementary protocol signed November 14, 1944. In adopting these Guidelines the Department of the Interior is making a final agency action regarding the operation of Lake Powell and Lake Mead, and the delivery of water to water users in the United States, in response to the worst drought in the Basin in over a century of recordkeeping.

Prior to adopting these Guidelines, the Department provided information on the proposed action to the USIBWC, and met with representatives of the Mexican Section of the IBWC and the Mexican Government. The Department has considered the information provided by the USIBWC prior to adopting these Guidelines, including information representing the views of the Government of Mexico. The USIBWC has advised that the Department may proceed with planning and implementation activities for these Guidelines with the understanding that these Guidelines are not intended to constitute an interpretation or application of the 1944 Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico.

The Department notes the intention of the Governments of the United States and Mexico, memorialized in a Joint Statement issued August 13, 2007, to cooperate and collaborate regarding issues related to the lower portion of the Colorado River under the auspices of the IBWC.

#### *D. Intentionally Created Surplus*

##### 1. Findings

ICS may be created through projects that create water system efficiency or extraordinary conservation or tributary conservation or the importation of non-Colorado River System water into the Mainstream. ICS is consistent with the concept that entities may take actions to augment storage of water in the lower Colorado River Basin. The ICS shall be delivered to the Contractor that created it pursuant to both Articles II(B)(2) and II(B)(6) of the Consolidated Decree and Forbearance Agreements. Implementation of these Guidelines for ICS is conditioned upon execution of Forbearance Agreements and Delivery Agreements as further provided for in these Guidelines.

##### 2. Purposes

The primary purposes of ICS are to: (a) Encourage the efficient use and management of Colorado River water; and to increase the water supply in Colorado River System reservoirs, through the creation, delivery and use of ICS; (b) help minimize or avoid shortages to water users in the Lower Basin; (c) benefit storage of water in both Lake Powell and Lake Mead; (d) increase the surface elevations of both Lake Powell and Lake Mead to higher levels than would have otherwise oc-

curred; and (f) assure any Contractor that invests in conservation or augmentation to create ICS that no other Contractor will claim the ICS created by the Contractor pursuant to an approved plan by the Secretary.

### 3. Quantities

The maximum quantities of Extraordinary Conservation ICS that may be accumulated in all ICS Accounts, at any time, upon the effective date of these Guidelines is **\*19884** limited to the amounts provided in Section 3.B.5. of these Guidelines. The maximum quantities of Extraordinary Conservation ICS that may be created and/or delivered in any given Year are also limited to the amounts provided in Sections 3.B.4. and 3.C.4., respectively. As described in the Final EIS, Reclamation has analyzed ICS amounts in excess of the amounts approved by this Record of Decision and provided in these Guidelines. Any decision by the Secretary to increase the amounts in excess of the amounts provided in these Guidelines would be based on actual operating experience and would require modification of these Guidelines after consultation with the Basin States.

#### *E. Relationship With Existing Law*

These Guidelines are not intended to, and do not:

1. Guarantee or assure any water user a firm supply for any specified period;
2. Change or expand existing authorities under applicable federal law, except as specifically provided herein with respect to determinations under the Long-Range Operating Criteria and administration of water supplies during the effective period of these Guidelines;
3. Address intrastate storage or intrastate distribution of water, except as may be specifically provided by Lower Division states and individual Contractors for Colorado River water who may adopt arrangements that will affect utilization of Colorado River water during the effective period of these Guidelines;
4. Change the apportionments made for use within individual States, or in any way impair or impede the right of the Upper Basin to consumptively use water available to that Basin under the Colorado River Compact;
5. Affect any obligation of any Upper Division state under the Colorado River Compact;
6. Affect any right of any State or of the United States under Sec. 14 of the Colorado River Storage Project Act of 1956 (70 Stat. 105); Sec. 601(c) of the Colorado River Basin Project Act of 1968 (82 Stat. 885); the California Limitation Act (Act of March 4, 1929; Ch. 16, 48th Sess.); or any other provision of applicable federal law;
7. Affect the rights of any holder of present perfected rights or reserved

rights, which rights shall be satisfied within the apportionment of the State within which the use is made, and in the Lower Basin, in accordance with the Consolidated Decree; or

8. Constitute an interpretation or application of the 1944 Treaty between the United States and Mexico Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande (1944 Treaty) or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Treaty with Mexico through the International Boundary and Water Commission (IBWC) in consultation with the Department of State.

*F. Definitions*

For purposes of these Guidelines, the following definitions apply:

1. "24-Month Study" refers to the operational study that reflects the current Annual Operating Plan that is updated each month by Reclamation to project future reservoir contents and releases. The projections are updated each month using the previous month's reservoir contents and the latest inflow and water use forecasts. In these Guidelines, the term "projected on January 1" shall mean the projection of the January 1 reservoir contents provided by the 24-Month Study that is conducted in August of the previous Year.

2. "AOP" shall mean the Annual Operating Plan for the Colorado River System Reservoirs.

3. "Active Storage" shall mean the amount of water in reservoir storage, exclusive of bank storage, which can be released through the existing reservoir outlet works, consistent with the Colorado River Basin Project Act of 1968 (82 Stat. 885).

4. "BCPA" shall mean the Boulder Canyon Project Act of 1928 (28 Stat. 1057).

5. "Basin States" shall mean the seven Colorado River Basin States of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming.

6. "Certification Report" shall mean the written documentation provided by a Contractor that provides the Secretary with sufficient information to allow the Secretary to determine whether the quantity of ICS or DSS approved by the Secretary in an approved plan has been created and whether the creation was consistent with the approved plan.

7. "Colorado River System" shall have the same meaning as defined in the 1922 Colorado River Compact.

8. "Consolidated Decree" shall mean the Consolidated Decree entered by the United

States Supreme Court in [Arizona v. California, 547 U.S. 150 \(2006\)](#).

9. "Contractor" shall mean an entity holding an entitlement to Mainstream water under (a) the Consolidated Decree, (b) a water delivery contract with the United States through the Secretary, or (c) a reservation of water by the Secretary, whether the entitlement is obtained under (a), (b) or (c) before or after the adoption of these Guidelines.

10. "DSS Account" shall mean records established by the Secretary regarding DSS.

11. "Delivery Agreement" shall mean an agreement consistent with these Guidelines entered into between the Secretary of the Interior and one or more Contractors creating ICS.

12. "Developed Shortage Supply ("DSS")" shall mean water available for use by a Contractor under the terms and conditions of a Delivery Agreement and Section 4 of these Guidelines in a Shortage Condition, under Article III(B)(3) of the Consolidated Decree.

13. "Direct Delivery Domestic Use" shall mean direct delivery of water to domestic end users or other municipal and industrial water providers within the Contractor's area of normal service, including incidental regulation of Colorado River water supplies within the Year of operation but not including Off-stream Banking. For the Metropolitan Water District of Southern California (MWD), Direct Delivery Domestic Use shall include delivery of water to end users within its area of normal service, incidental regulation of Colorado River water supplies within the Year of operation, and Off-stream Banking only with water delivered through the Colorado River Aqueduct.

14. "Domestic Use" shall have the same meaning as defined in the 1922 Colorado River Compact.

15. "Forbearance Agreement" shall mean an agreement under which one or more Contractors agree to forbear a right to ICS, under a water delivery contract or the Consolidated Decree.

16. "ICS Account" shall mean records established by the Secretary regarding ICS.

17. "ICS Determination" shall mean a determination by the Secretary that ICS is available for delivery.

18. "Intentionally Created Surplus ("ICS")" shall mean surplus Colorado River System water available for use under the terms and conditions of a Delivery Agreement, a Forbearance Agreement, and these Guidelines.

a. ICS created through extraordinary conservation, as provided for in Section 3.A.1., shall be referred to as "Extraordinary Conservation ICS."

b. ICS created through tributary conservation, as provided for in Section 3.A.2., shall be referred to as "Tributary Conservation ICS."

c. ICS created through system efficiency projects, as provided for in \*19885 Section 3.A.3., shall be referred to as "System Efficiency ICS."

d. ICS created through the importation of non-Colorado River System Water, as provided for in Section 3.A.4., shall be referred to as "Imported ICS."

19. "Interim Period" shall mean the effective period as described in Section 8.

20. "Long-Range Operating Criteria ("LROC")" shall mean the Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. 90-537), published at [35 FR 8951 \(June 10, 1970\)](#), as amended March 21, 2005.

21. "Lower Division states" shall mean the Colorado River Basin States of Arizona, California, and Nevada.

22. "Mainstream" shall have the same meaning as defined in the Consolidated Decree.

23. "Off-stream Banking" shall mean the diversion of Colorado River water to underground storage facilities for use in subsequent Years from the facility used by a Contractor diverting such water.

24. "ROD" shall mean the Record of Decision issued by the Secretary for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead.

25. "Upper Division states" shall mean the Colorado River Basin States of Colorado, New Mexico, Utah, and Wyoming.

26. "Water Accounting Report" shall mean the annual Colorado River Accounting and Water Use Report--Arizona, California, and Nevada that includes, but is not limited to, the compilation of records in accordance with Article V of the Consolidated Decree.

27. "Water Year" shall mean October 1 through September 30.

28. "Year" shall mean calendar year.

*G. Interim Guidelines for the Operation of Lake Powell and Lake Mead*

These Guidelines shall include Sections XI.A., B., E., and F. above and this Section XI.G. These Guidelines which shall implement and be used for determinations made pursuant to the Long-Range Operating Criteria during the effective period identified in Section 8, are hereby adopted:

Section 1. Allocation of Unused Basic Apportionment Water Under Article II(B)(6)

*A. Introduction*

Article II(B)(6) of the Consolidated 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 to Unused Basic Apportionment*

Before making a determination of a Surplus Condition under these Guidelines, the Secretary will determine the quantity of apportioned but unused water excluding ICS created in that Year from the basic apportionments 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 MWD and Southern Nevada Water Authority (SNWA), allocated as agreed by said agencies;
2. Meet the needs for Off-stream Banking activities for use in California by MWD and for use in Nevada by SNWA, allocated as agreed by said agencies; and
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. Determination of Lake Mead Operation During the Interim Period

In the development of the AOP, the Secretary shall use the August 24-Month Study projections for the following January 1 system storage and reservoir water surface elevations to determine the Lake Mead operation for the following Calendar Year as described in this Section 2.

*A. Normal Conditions*

1. Lake Mead above elevation 1,075 feet and below elevation 1,145 feet

In years when Lake Mead elevation is projected to be above 1,075 feet and below elevation 1,145 feet on January 1, the Secretary shall determine either a Normal Condition, or, under Section 2.B.5., an ICS Surplus Condition.

*B. Surplus Conditions*

1. Partial Domestic Surplus

Adopted January 16, 2001; Deleted December 13, 2007.]

2. Domestic Surplus

(Lake Mead at or above elevation 1,145 feet and below the elevation that triggers a Quantified Surplus (70R Strategy).)

In years when Lake Mead content is projected to be at or above elevation 1,145 feet, but less than the amount which would initiate a Surplus under Section 2.B.3., Quantified Surplus, or Section 2.B.4., Flood Control Surplus, on January 1, the Secretary shall determine a Domestic Surplus Condition. The amount of such Surplus shall equal--

a. From the effective date of these Guidelines through December 31, 2015 (through preparation of the 2016 AOP):

(1) For Direct Delivery Domestic Use by MWD, 1.250 maf reduced by the amount of basic apportionment available to MWD.

(2) For use by SNWA, the Direct Delivery Domestic Use within the SNWA service area in excess of the State of Nevada's basic apportionment.

(3) For use in Arizona, the Direct Delivery Domestic Use in excess of Arizona's basic apportionment.

b. From January 1, 2016 (for preparation of the 2017 AOP) through December 31, 2025 (through preparation of the 2026 AOP):

(1) For use by MWD, 250,000 af per Year in addition to the amount of California's basic apportionment available to MWD.

(2) For use by SNWA, 100,000 af per Year in addition to the amount of Nevada's basic apportionment available to SNWA.

(3) For use in Arizona, 100,000 af per Year in addition to the amount of Arizona's basic apportionment available to Arizona Contractors.

### 3. Quantified Surplus (70R Strategy) [FN2]

FN2 70R is a spill avoidance strategy that determines a surplus if the January 1 projected system storage space is less than the space required by the flood control criteria, assuming a natural inflow of 17.4 maf (the 70th percentile non-exceedence flow). See ISG Final EIS at Section 2.3.1.2.

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

a. Establish the volume of the Quantified Surplus. For the purpose of determining the existence, and establishing the volume, of Quantified Surplus, the Secretary shall not consider any volume of ICS as defined in these Guidelines.

b. Allocate and distribute the Quantified Surplus 50 percent to California, 46 percent to Arizona, and 4 percent to Nevada, subject to c. through e. that follow.

c. Distribute California's share first to meet basic apportionment demands and MWD's demands, and then to California Priorities 6 and 7 and other surplus \*19886 contracts. Distribute Nevada's share first to meet basic apportionment demands and then to the remaining demands. Distribute Arizona's share to surplus demands in Arizona including Off-stream Banking and interstate banking demands. Nevada shall receive first priority for interstate banking in Arizona.

d. Distribute any unused share of the Quantified Surplus in accordance with Section 1.

e. Determine whether MWD, SNWA and Arizona have received the amount of water they would have received under Section 2.B.2., if a Quantified Surplus Condition had not been determined. If they have not, then determine and meet all demands provided for in Section 2.B.2.

#### 4. Flood Control Surplus

In years in which the Secretary makes space-building or flood control releases [FN3] pursuant to the 1984 Field Working Agreement between Reclamation and the Army Corps of Engineers (as may be amended), the Secretary shall determine a Flood Control Surplus for the remainder of that Year or the subsequent Year. In such years, releases will be made to satisfy all beneficial uses within the United States, including unlimited Off-stream Banking.

FN3 Under current practice, surplus waters are made available to Mexico pursuant to the 1944 Treaty (when Mexico may schedule up to an additional 0.2 maf) when flood control releases are made. These Guidelines are not intended to affect that practice. Any issues relating to the implementation of the 1944 Treaty, including any potential changes in approach relating to surplus declarations under the 1944 Treaty, would be addressed with Mexico as appropriate through the USIBWC.

#### 5. ICS Surplus

a. In years in which Lake Mead's elevation is projected to be above elevation 1,075 feet on January 1, a Flood Control Surplus has not been determined, and delivery of ICS has been requested, the Secretary may determine an ICS Surplus Condition in lieu of a Normal Condition or in addition to other operating conditions that are based solely on the elevation of Lake Mead.

b. In years in which a Quantified Surplus or a Domestic Surplus is available to a Contractor, the Secretary shall first deliver the Quantified Surplus or Domestic Surplus before delivering any requested ICS to that Contractor. If available Quantified Surplus or Domestic Surplus is insufficient to meet a Contractor's demands, the Secretary shall deliver ICS available in that Contractor's ICS Account at the

request of the Contractor, subject to the provisions of Section 3.C.

*C. Allocation of Colorado River Water and Forbearance and Reparation Arrangements*

Content of 2001 ISG Section 2.C., Allocation of Colorado River Water and Forbearance and Reparation Arrangements, is now found at III.A., as modified.]

*D. Shortage Conditions*

1. Deliveries to the Lower Division States during Shortage Condition Years shall be implemented in the following manner:

a. In years when Lake Mead content is projected to be at or below elevation 1,075 feet and at or above 1,050 feet on January 1, a quantity of 7.167 maf shall be apportioned for consumptive use in the Lower Division States of which 2.48 maf shall be apportioned for use in Arizona and 287,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

b. In years when Lake Mead content is projected to be below elevation 1,050 feet and at or above 1,025 feet on January 1, a quantity of 7.083 maf shall be apportioned for consumptive use in the Lower Division States of which 2.4 maf shall be apportioned for use in Arizona and 283,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

c. In years when Lake Mead content is projected to be below elevation 1,025 feet on January 1, a quantity of 7.0 maf shall be apportioned for consumptive use in the Lower Division States of which 2.32 maf shall be apportioned for use in Arizona and 280,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

2. During a Year when the Secretary has determined a Shortage Condition, the Secretary shall deliver Developed Shortage Supply available in a Contractor's DSS Account at the request of the Contractor, subject to the provisions of Section 4.C.

*Section 3. Implementation of Intentionally Created Surplus*

Content of 2001 ISG Section 3., Implementation of Guidelines, is now found at Section 7., as modified herein.]

*A. Categories of ICS*

1. Extraordinary Conservation ICS

A Contractor may create Extraordinary Conservation ICS through the following activities:

- a. Fallowing of land that currently is, historically was, and otherwise would have been irrigated in the next Year.
- b. Canal lining programs.
- c. Desalination programs in which the desalinated water is used in lieu of Mainstream water.
- d. Extraordinary conservation programs that existed on January 1, 2006.
- e. Extraordinary Conservation ICS demonstration programs pursuant to a letter agreement entered into between Reclamation and the Contractor prior to the effective date of these Guidelines.
- f. Tributary Conservation ICS created under Section 3.A.2. and not delivered in the Year created.
- g. Imported ICS created under Section 3.A.4. and not delivered in the Year created.
- h. Other extraordinary conservation measures, including but not limited to, development and acquisition of a non-Colorado River System water supply used in lieu of Mainstream water within the same state, in consultation with the Basin States.

## 2. Tributary Conservation ICS

A Contractor may create Tributary Conservation ICS by purchasing documented water rights on Colorado River System tributaries within the Contractor's state if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 3.D. Any Tributary Conservation ICS not delivered pursuant to Section 3.C. or deducted pursuant to Section 3.B.2. in the Year it was created will, at the beginning of the following Year, be converted to Extraordinary Conservation ICS and will thereafter be subject to all provisions applicable to Extraordinary Conservation ICS. Tributary Conservation ICS may be delivered for Domestic Use only.

## 3. System Efficiency ICS

A Contractor may make contributions of capital [FN4] to the Secretary for use in **\*19887** projects designed to realize system efficiencies that save water that would otherwise be lost from the Mainstream in the United States. An amount of water equal to a portion of the water conserved would be made available to contributing Contractor(s) by the Secretary as System Efficiency ICS. [FN5] System efficiency projects are intended only to provide temporary water supplies. System Efficiency ICS will be delivered to the contributing Contractor(s) on a schedule of annual

deliveries as provided in an exhibit to a Forbearance Agreement and Delivery Agreement. The Secretary may identify potential system efficiency projects, terms for capital participation in such projects, and types and amounts of benefits the Secretary could provide in consideration of non-federal capital contributions to system efficiency projects, including identification of a portion of the water saved by such projects.

FN4 To the extent permitted by federal law, monies to pay construction, operation, maintenance, repair, and/or replacement costs.

FN5 Should other Contractor(s) elect to participate in a system efficiency project following the Secretary making an amount of water available to the contributing Contractor(s), the Secretary shall reduce the amount of water in the contributing Contractor(s)' ICS Account(s) and credit the electing Contractor(s)' ICS Account(s) in an equal amount in accordance with the terms of the Secretary's agreement for the funding of the system efficiency project.

#### 4. Imported ICS

A Contractor may create Imported ICS by introducing non-Colorado River System water in that Contractor's state into the Mainstream. Contractors proposing to create Imported ICS shall make arrangements with the Secretary, contractual or otherwise, to ensure no interference with the Secretary's management of Colorado River System reservoirs and regulatory structures. Any arrangement shall provide that the Contractor must obtain appropriate permits or other authorizations required by state and federal law. The actual amount of any Imported ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 3.D. Any Imported ICS not delivered pursuant to Section 3.C. or deducted pursuant to Section 3.B.2. in the Year it was created will be converted, at the beginning of the following Year, to Extraordinary Conservation ICS and thereafter will be subject to all provisions applicable to Extraordinary Conservation ICS.

#### *B. Creation of ICS*

A Contractor may only create ICS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of ICS to the Secretary demonstrating how all requirements of these Guidelines will be met in the Contractor's creation of ICS. Until such plan is reviewed and approved by the Secretary, subject to such environmental compliance as may be required, such plan or any ICS purportedly created through it shall not be a basis for creation of ICS. An ICS plan will consist of at a minimum the following information:

a. Project description, including what extraordinary measures will be taken to conserve or import water;

b. Term of the activity;

- c. Estimate of the amount of water that will be conserved or imported;
- d. Proposed methodology for verification of the amount of water conserved or imported; and
- e. Documentation regarding any state or federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of ICS.

A Contractor may modify its approved plan for creation of ICS during any Year, subject to approval by the Secretary. A Contractor with an approved multi-Year plan for System Efficiency ICS is not required to seek further approval by the Secretary in subsequent Years unless the Contractor seeks to modify the plan.

2. There shall be a one-time deduction of five percent (5%) from the amount of ICS in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead. This one-time system assessment shall not apply to:

- a. System Efficiency ICS created pursuant to Section 3.B. because a large portion of the water conserved by this type of project will increase the quantity of system water in storage over time.
- b. Extraordinary Conservation ICS created by conversion of Tributary Conservation ICS that was not delivered in the Year created, pursuant to this Section 3.B. because 5% of the ICS is deducted at the time the Tributary Conservation ICS is created.
- c. Extraordinary Conservation ICS created by conversion of Imported ICS that was not delivered in the Year created, pursuant to this Section 3.B. because 5% of the ICS is deducted at the time the Imported ICS is created.
- d. ICS created under demonstration programs in 2006 and 2007 which has already been assessed the 5% system assessment.

3. Except as provided in Sections 3.A.2. and 3.A.4., Extraordinary Conservation ICS can only be created if such water would have otherwise been beneficially used.

4. The maximum total amount of Extraordinary Conservation ICS that can be created during any Year is limited to the following:

- a. 400,000 af for California Contractors;
- b. 125,000 af for Nevada Contractors; and
- c. 100,000 af for Arizona Contractors.

5. The maximum quantity of Extraordinary Conservation ICS that may be accumulated

in all ICS Accounts, at any time, is limited to the following:

- a. 1.5 maf for California Contractors;
- b. 300,000 af for Nevada Contractors; and
- c. 300,000 af for Arizona Contractors.

6. Except as provided in Sections 3.A.2. and 3.A.4., no category of surplus water can be used to create Extraordinary Conservation ICS.

7. The quantity of Extraordinary Conservation ICS remaining in an ICS Account at the end of each Year shall be diminished by annual evaporation losses of 3%. Losses shall be applied annually to the end-of-the-Year balance of Extraordinary Conservation ICS beginning in the Year after the ICS is created and continuing until no Extraordinary Conservation ICS remains in Lake Mead. No evaporation losses shall be assessed during a Year in which the Secretary has determined a Shortage Condition.

8. Extraordinary Conservation ICS from a project within a state may only be credited to the ICS Account of a Contractor within that state that has funded or implemented the project creating ICS, or to the ICS Account of a Contractor within the same state as the funding entity and project and with written agreement of the funding entity.

9. A Contractor must notify Reclamation of the amount of ICS it wishes to create for the subsequent Year pursuant to an existing, approved plan. A Contractor may request mid-Year modification(s) to reduce the amount of ICS created during that Year, subject to the requirements of this Section 3.B. A Contractor cannot increase the amount of ICS it had previously scheduled to create during the Year.

#### *C. Delivery of ICS*

The Secretary shall deliver ICS in accordance with the following conditions:

1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding ICS.
2. The Secretary has determined an ICS Surplus Condition.
3. The existence of Forbearance Agreements necessary to bring the delivery of the ICS into compliance with Articles II(B)(2) and II(B)(6) of the Consolidated Decree.

**\*19888** 4. A limitation on the total amount of Extraordinary Conservation ICS that may be delivered in any Year is as follows:

- a. 400,000 af for California Contractors;

b. 300,000 af for Nevada Contractors; and

c. 300,000 af for Arizona Contractors.

5. If the May 24-Month Study for that Year indicates that a Shortage Condition would be determined in the succeeding Year if the requested amounts for the current Year under Section 3.C. were delivered, the Secretary may deliver less than the amounts of ICS requested to be delivered.

6. If the Secretary releases Flood Control Surplus water, Extraordinary Conservation ICS accumulated in ICS Accounts shall be reduced by the amount of the Flood Control Surplus on an acre-foot for acre-foot basis until no Extraordinary Conservation ICS remains. The reductions to the ICS Accounts shall be shared on a pro-rata basis among all Contractors that have accumulated Extraordinary Conservation ICS.

7. If a Contractor has an overrun payback obligation, as described in the October 10, 2003 Inadvertent Overrun and Payback Policy or Exhibit C to the October 10, 2003 Colorado River Water Delivery Agreement, the Contractor must pay the overrun payback obligation in full before requesting or receiving delivery of ICS. The Contractor's ICS Account shall be reduced by the amount of the overrun payback obligation in order to pay the overrun payback obligation.

8. If more ICS is delivered to a Contractor than is actually available for delivery to the Contractor in that Year, then the excess ICS delivered shall be treated as an inadvertent overrun until it is fully repaid.

9. A Contractor may request mid-Year modification(s) to increase or reduce the amount of ICS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this Section 3.C.

10. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of ICS shall be open to inspection by the Secretary and by any Contractor or Basin State.

#### *D. Accounting for ICS*

The Secretary shall develop procedures to account for and verify, on an annual basis, ICS creation and delivery. At a minimum such procedures shall include the following:

1. A Contractor shall submit for the Secretary's review and verification, appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of ICS created and that the method of creation was consistent with the Contractor's approved ICS plan, a Forbearance Agreement, and a Delivery Agreement. Such information shall be submitted in the Year following the creation of the ICS.

2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to this section, and provide a final written decision to the Contractor regarding the amount of ICS created. The results of such final written decisions shall be made available to the public through publication pursuant to Section 3.D.3. and other appropriate means. A Contractor and any party to an applicable Forbearance Agreement may appeal the Regional Director's verification decision first to the Regional Director and then to the Secretary; and through judicial processes.

3. Each Year the Water Accounting Report will be supplemented to include ICS Account balance information for each Contractor and shall address ICS creation, deliveries, amounts no longer available for delivery due to releases for flood control purposes, deductions pursuant to Section 3.B.2., deductions due to annual evaporation losses pursuant to Section 3.B.7., any amounts of ICS converted to Extraordinary Conservation ICS, and ICS remaining available for delivery.

#### Section 4. Implementation of Developed Shortage Supply

Content of 2001 ISG Section 4., Effective Period & Termination, is now found at Section 8., as modified herein.]

##### A. Categories of DSS

###### 1. Tributary Conservation DSS

A Contractor may create Tributary Conservation DSS by purchasing documented water rights on Colorado River System tributaries within the Contractor's state if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation DSS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 4.D. Tributary Conservation DSS may be delivered for Domestic Use only.

###### 2. Imported DSS

A Contractor may create Imported DSS by introducing non-Colorado River System water in that Contractor's state into the Mainstream, making sufficient arrangements with the Secretary, contractual or otherwise, to ensure no interference with the Secretary's management of Colorado River System reservoirs and regulatory structures. Any arrangement shall provide that the Contractor must obtain appropriate permits or other authorizations required by state and federal law. The actual amount of any Imported DSS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 4.D.

##### B. Creation of DSS

A Contractor may only create DSS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of DSS to the Secretary demonstrating how all requirements of these Guidelines will be met in the Contractor's creation of DSS. Until such plan is reviewed and approved by the Secretary, subject to such environmental compliance as may be required, such plan, or any DSS purportedly created through it, shall not be a basis for creation of DSS. A DSS plan will consist of at a minimum the following information:

- a. Project description, including what extraordinary measures will be taken to conserve or import water;
- b. Term of the activity;
- c. Estimate of the amount of water that will be conserved or imported;
- d. Proposed methodology for verification of the amount of water conserved or imported; and
- e. Documentation regarding any state or federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of DSS.

A Contractor may modify its approved plan for creation of DSS during any Year, subject to approval by the Secretary.

2. There shall be a one-time deduction of five percent (5%) from the amount of DSS in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead.

3. DSS may only be created during a Year when the Secretary has determined a Shortage Condition.

4. DSS may only be created by a project that is approved by the Secretary for creation prior to the Secretary determining a Shortage Condition.

5. A Contractor must notify Reclamation of the amount of DSS it \*19889 wishes to create for the subsequent Year pursuant to an existing, approved plan. A Contractor may request mid-Year modification(s) to reduce the amount of DSS created during that Year, subject to the requirements of this Section 4.B. A Contractor cannot increase the amount of DSS it had previously scheduled to create during the Year.

### *C. Delivery of DSS*

The Secretary shall deliver DSS in accordance with the following conditions:

1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding DSS.

2. The Secretary has determined a Shortage Condition.
3. Delivery of DSS shall not cause the total deliveries within the Lower Division states to reach or exceed 7.5 maf in any Year.
4. Delivery of DSS shall be in accordance with Article II(B)(3) of the Consolidated Decree.
5. If a Contractor has an overrun payback obligation, as described in the October 10, 2003 Inadvertent Overrun and Payback Policy or Exhibit C to the October 10, 2003 Colorado River Water Delivery Agreement, the Contractor must pay the overrun payback obligation in full before requesting or receiving delivery of DSS. The Contractor's DSS Account shall be reduced by the amount of the overrun payback obligation in order to pay the overrun payback obligation.
6. If more DSS is delivered to a Contractor than is actually available for delivery to the Contractor in that Year, then the excess DSS delivered shall be treated as an inadvertent overrun until it is fully repaid.
7. A Contractor may request mid-Year modification(s) to increase or reduce the amount of DSS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this Section 4.C.
8. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of DSS shall be open to inspection by the Secretary or by any Contractor or Basin State.
9. DSS may only be delivered in the Year of its creation. Any DSS not delivered pursuant to this Section 4.C. in the Year it is created may not be converted to Extraordinary Conservation ICS.

*D. Accounting for DSS*

The Secretary shall develop procedures to account for and verify, on an annual basis, DSS creation and delivery. At a minimum such procedures shall include the following:

1. A Contractor shall submit for the Secretary's review and verification appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of DSS created and that the method of creation was consistent with the Contractor's approved DSS plan and a Delivery Agreement. Such information shall be submitted in the Year following the creation of the DSS.
2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to this section, and provide a final written decision to the Contractor regarding the amount of DSS created. The results of such final written decisions shall be made available to the public through publication pursuant to Section 4.D.3. and other appropriate means. The Contractor

may appeal the Regional Director's verification decision first to the Regional Director and then to the Secretary; and through judicial processes.

3. Each Year the Water Accounting Report will be supplemented to include DSS information for each Contractor and shall address DSS creation, deliveries, and deductions pursuant to Section 4.B.2.

Section 5. California's Colorado River Water Use Plan Implementation Progress

A. Introduction

Adopted January 16, 2001; Deleted December 13, 2007.]

B. California's Quantification Settlement Agreement

Adopted January 16, 2001; Deleted December 13, 2007.]

C. California's Colorado River Water Use Reductions

The California Agricultural (Palo Verde Irrigation District, Yuma Project Reservation Division, Imperial Irrigation District, and Coachella Valley Water District) usage plus 14,500 af of Present Perfected Right (PPR) use would need to be at or below the following amounts at the end of the Year indicated in Years other than Quantified or Flood Control Surplus (for Decree accounting purposes all reductions must be within 25,000 af of the amounts stated):

Benchmark date (calendar year)	Benchmark quantity (California agricultural usage & 14,500 AF of PPR use in MAF)
2003 .....	[FN6] 3.75
2006 .....	[FN6] 3.64
2009 .....	[FN7] 3.60
2012 .....	3.47

In the event that California has not reduced its use in accordance with the limits set forth above in any Year in which the Benchmark Quantity applies, the surplus determination under Section 2.B.2. of these Guidelines will be suspended and will instead be based upon the 70R Strategy, for up to the remainder of the term of these Guidelines. If however, California meets the missed Benchmark Quantity before the next Benchmark Date or the 2012 Benchmark Quantity after 2012, the surplus determination under Section 2.B.2. shall be reinstated as the basis for the surplus determination under the AOP for the next following Year(s).

FN6 The Benchmark Quantities in 2003 and 2006 were met.

tion 7.A., as modified herein.]

*A. AOP Process*

During the Interim Period, the Secretary shall utilize the AOP process to determine operations under these Guidelines concerning the coordinated operations of Lake Powell and Lake Mead pursuant to Section 6 of these Guidelines, and the allocation of apportioned but unused water from Lake Mead and the determinations concerning whether Normal, Surplus or Shortage conditions shall apply for the delivery of water from Lake Mead, pursuant to Section 1 and Section 2 of these Guidelines.

*B. Consultation*

The Secretary shall consult on the implementation of these Guidelines in circumstances including but not limited to the following:

1. The Secretary shall first consult with all the Basin States before making any substantive modification to these Guidelines.

2. Upon a request for modification of these Guidelines, or upon a request to resolve any claim or controversy arising under these Guidelines or under the operations of Lake Powell and Lake Mead pursuant to these Guidelines or any other applicable provision of federal law, regulation, criteria, policy, rule, or guideline, or regarding application of the 1944 Treaty that has the potential to affect domestic management of Colorado River water, the Secretary shall invite the Governors of all the Basin States, or their designated representatives, and the Department of State and USIBWC as appropriate, to consult with the Secretary in an attempt to resolve such claim or controversy by mutual agreement.

3. In the event projections included in any monthly 24-Month Study indicate Lake Mead elevations may approach an elevation that would trigger shortages in deliveries of water from Lake Mead in the United States, the Secretary shall consult with the Department of State, the USIBWC and the Basin States on whether and how the United States may reduce the quantity of water allotted to Mexico consistent with the 1944 Treaty. [FN8]

FN8 These Guidelines are not intended to constitute an interpretation or application of the 1944 Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Treaty with Mexico through the IBWC in consultation with the Department of State.

4. Whenever Lake Mead is below elevation 1,025 feet, the Secretary shall consult with the Basin States annually to consider whether Colorado River hydrologic conditions, together with the anticipated delivery of water to the Lower Division

States and Mexico, is likely to cause the elevation of Lake Mead to fall below 1,000 feet. Upon such a consideration, the Secretary shall consult with the Basin States to discuss further measures that may be undertaken. The Secretary shall implement any additional measures consistent with applicable federal law.

5. During the Interim Period the Secretary shall consult with the Basin States regarding the administration of ICS.

6. During the Interim Period the Secretary shall consult with the Basin States regarding the creation of ICS through other extraordinary conservation measures pursuant to Section 3.A.1.h.

7. During the Interim Period the Secretary shall consult with the Basin States regarding the creation of System Efficiency ICS pursuant to Section 3.A.3.

8. The Secretary shall consult with the Basin States to evaluate actions at critical elevations that may avoid \*19892 shortage determinations as reservoir elevations approach critical thresholds.

#### *C. Mid-Year Review*

In order to allow for better overall water management during the Interim Period, the Secretary may undertake a mid-year review to consider revisions to the AOP. The Secretary shall initiate a mid-year review if requested by any Basin State or by the Upper Colorado River Commission. In the mid-year review, the Secretary may modify the AOP to make a determination that a different operational tier (Section 2.A., B., or D., or Section 6.A., B., C., or D.) than that determined in the AOP will apply for the remainder of the Year or Water Year as appropriate, or that an amount of water other than that specified in the applicable operational tier will be released for the remainder of the Year or Water Year as appropriate. The determination of modification of the AOP shall be based upon an evaluation of the objectives 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. In undertaking such a mid-year review, the Secretary shall utilize the April 1 final forecast of the April through July runoff, currently provided by the National Weather Service's Colorado Basin River Forecast Center, and other relevant factors such as actual runoff conditions, actual water use, and water use projections. For Lake Mead, the Secretary shall revise the determination in any mid-year review for the current Year only to allow for additional deliveries from Lake Mead pursuant to Section 2 of these Guidelines.

#### *D. Operations During Interim Period*

These Guidelines implement the LROC and may be reviewed concurrently with the LROC five-year review. The Secretary will base annual determinations regarding the operations of Lake Powell and Lake Mead on these Guidelines unless extraordinary circumstances arise. Such circumstances could include operations that are prudent