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## **Colorado River Basin Study Comments--Southern Nevada Water Authority**

David A. Donnelly

Southern Nevada Water Authority

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**FAX**

Date: April 4, 1997

From: SNWA Resources

Department: Southern Nevada Water Authority, Resources

SNWA Resources FAX #: (702) 258-3951

Document(s): COLORADO RIVER BASIN STUDY REVIEW

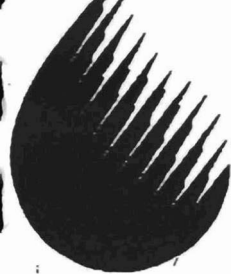
Number of Pages (including cover sheet): 7

Note: Hardcopy to follow.

To: Western Water Policy Review Office

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April 3, 1997

**Dale Pontius**  
Western Water Policy Review Office D-5001  
P.O. Box 25007  
Denver, CO 80225-0007

Dear Mr. Pontius:

**SUBJECT: COLORADO RIVER BASIN STUDY REVIEW**

My staff has reviewed the draft "Colorado River Basin Study" and generally finds the document well-written and comprehensive, with a good grasp of the issues. We have attached our comments, mostly editorial in nature.

In closing, your recommendations are good, but general, and we wish that you could be more specific. Thank you for the opportunity to comment. If you have questions on these comments, please contact Susan Selby at (702) 258-3214.

Sincerely,

David A. Donnelly  
Deputy General Manager,  
Engineering/Operations

DAD:SRS:vw  
Attachment

c: Kay Brothers  
Gerald Edwards  
David Lindgren  
Susan Selby  
Gary Weatherford  
Chris Weiss

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## SOUTHERN NEVADA WATER AUTHORITY

### COMMENTS

**Page ii:** The page numbers are inconsistent with the report's sections starting with pg. 40.

**Page 2:** The "shift in values" is really more an EXPANSION of values; the traditional management roles are no less valuable, they are now more complicated by emerging environmental and recreational values.

**Page 3, last bullet:** "...into the development of a reasonable AND prudent alternative..."

**Page 4, par. 1:** ". . . provide water development interests with accountability and more clearly defined mitigation requirements. . ." With regards to accountability, do you mean to say "provide interests with accountability requirements, i.e. make interests more accountable" or "make the accountability requirements more clearly defined?"

**Page 4, par. 3:** Provide benefits AND COSTS of restoration.

**Page 14, footnote 1:** You should also explain that the III(D) requirement is leaving less than 7.5 MAFY for the upper division, due to overestimation of supply vs. flows on record. (This point is made in Table 4 (footnote 1), Table 5, and page 48, but should be introduced as early as possible.)

**Page 14, par. 2:** Why not include a reference to Central Arizona Project agriculture, among major users?

**Page 14, par.3, first line:** If you are going to discuss overallocation, then the first line should be rewritten to say, "If recent flow estimates of 13 MAFY are correct and it is assumed that the Upper Basin is supposed to receive the full 7.5 MAFY, then the river has been overallocated by 25 percent." The Upper Basin must provide the Lower Basin with 7.5 MAF (75,000,000 over 10 years); it gets the remainder, which could be less than 7.5 MAFY when the flow on the River is less. (See our above comment for Page 14, footnote 1.)

**Page 17, Tables 3 and 4:** Use "apportionment" rather than entitlement.

**Page 18, Table 5:** This table covers the basic apportionments among the states and Mexico. Given the continuing significance of unused apportionment and the rising importance of surplus, both types of apportionment should be mentioned in a footnote. Check II(B)(2) for details; Nevada has contracted for the 4 percent. (Otherwise, they are not referred to until page 36, line 1, briefly.)

**Page 24, line 2:** Replace "entitlement" with "apportionment". (You could do a "global" search.)

**Page 25, last three lines, and page 26, top two lines:** Delete and substitute something like "Second, while the Arizona v. California opinion made it clear that the tributaries in the lower basin belong

to the respective states, arguments have been raised against the diversion of water contributed by those tributaries from the mainstream, even though such a prohibition would cause the Southern Nevada Water Authority to build a pipeline approximately 60 miles at great expense to divert Virgin River water.”

Page 26, last line: The Secretary’s authority is not dependent upon exhausting efforts at consensus.

Page 27 (and elsewhere): Refer to lower and upper “division” states, rather than “basin” states, for accuracy.

Page 27, line 14: Use “lower division” rather than “Lower Basin states”.

Page 27, line 19: Change “4.4 mafy entitlement” to “4.4 MAFY basic apportionment.”

Page 28, line 24: Is there a current intention to cover tribal water marketing in the next iteration of draft regulations?

Page 31, last paragraph, and page 46, par. 2: 2007, not 2010.

Page 36, last paragraph: Research (Bryant v. Yellen, 447 U.S. 352 (1980)) and replace this description of IID’s rights with the correct one.

Page 38, footnote 6: Replace with “Although MWD has expressed interest in lining the All American Canal, IID currently asserts the right to do so and it is unknown whether MWD will contest that right. The project is at a standstill because of this dispute and because of opposition by Mexico, which claims the seepage from the canal.”

Page 44, par. 1(?): Add footnote reference to the ESA lawsuit filed in March.

Page 46, line 8: Substitute “apportionment” or “basic apportionment” for “entitlement.”

Page 47, par. 1: Delete paragraph after “. . . (Mulroy, 1994).” and add the following: “Latest forecasts show Clark County reaching a population of 1.4 million by the year 2000.” (“Forecast” report, CBER.) In 1991, the Las Vegas Valley Water District, the largest water provider in the Las Vegas Valley and a member of the SNWA once it was created, suspended commitments for water delivery to new projects for a year, to determine exactly how much water it had committed for future years. In 1995, during SNWA’s resource planning process, SNWA’s citizen advisory committee recommended that the Authority utilize all available supplies to meet water demands, including temporary supplies, while working to acquire more permanent ones. Before that time, the Authority had considered only long-term water to meet demands. Now, Nevada is looking to unused apportionments, surplus, and participation in the Arizona Water Bank as possible interim supplies and to the Lower Basin and the federal government to expand its permanent supply.”

Page 47, lines 14 and 15: Delete “, although this is not entirely clear.” Begin next sentence with “Under a common interpretation. . .”

Page 55, par. 1: Insert after "In 1984 . . . efficiencies." the following "The Board's decision was affirmed by the California courts, and the U. S. Supreme Court refused to review it." (In addition, please check the 400,000 AF figure. We think that the Board used a range, with 400,000 AF as the low end and something like 700,000 as the upper end.)

Page 56: Please add the following paragraph on Southern Nevada's conservation efforts. "Southern Nevada Water Authority has a minimum conservation goal of 10 to 15 percent by the year 2000. By the end of 1996, the Authority had already achieved an estimated 11% cumulative savings from conservation programs and water rate increases since 1991, when conservation programs began in the Las Vegas Valley. All water customers are metered and conservation water rates -- increasing block rates whereby large users pay higher rates -- are in place. The Authority has a current conservation program budget of \$3 million. Programs include indoor plumbing retrofit programs, daytime outdoor watering restrictions during the summer, extensive conservation education, a "Cash for Grass" turf replacement incentive program, and water audit programs for outdoor irrigation systems."

Page 56, last paragraph: Reference to 50 MAF discharge is misleading. Most is from north coast rivers where reuse offers no potential.

Page 57, par. 3: Replace with the following: "Southern Nevada has a unique reuse program in that it essentially reuses all of the treated Colorado River wastewater that it returns to the River, in the form of "return flow credits." This means that, for every acre-foot of treated Colorado River wastewater that Southern Nevada returns to the River, it can divert that much more Colorado River water, as long its consumptive use (defined in the Law of the River as "diversions less return flows") is no more than 300,000 acre-feet per year. Southern Nevada's existing diversion contract quantities are already based on the assumption that most of the treated wastewater is returned for credit. Because of this, more reuse of the wastewater for outdoor irrigation and power plants, for example, rather than returning it to the River for credit, would not increase the region's water supply. Instead, decisions to reuse are usually based on facility capacities and costs. As a result, effluent reuse has been increasing in Southern Nevada and expected to continue. The Las Vegas region for the most part now requires the use of reclaimed water for new developments with large landscape irrigation. Some water features on the famous Las Vegas Strip treat and use graywater and nuisance shallow ground water."

(FYI: Southern Nevada, the only portion of the state that uses Colorado River, does not have agriculture that uses Colorado River water, and the Las Vegas region (Southern Nevada Water Authority service area) does not have agriculture at all.)

Page 58, par. 2: To give an idea of how values have changed, even within the Fish and Wildlife Service, you might mention the poisoning of Flaming Gorge in the 1970s(?) to eliminate the "trash" native fish, in order to allow the exotics to flourish.

Page 58, par. 3: Bonytail chub should be just "bonytail".

**Page 59, 3rd bullet: Move sentence up to bullet.**

**Page 62, par. 2: More information can be presented here in regards to the findings of the BOR's biological assessment (BA).**

**Page 62, par. 2: Change second sentence to read, "A reasonable AND prudent alternative will be developed by FWS and the BOR if the BO results in one or more jeopardy opinions."**

**Page 62, par. 3: Change paragraph to read, "In 1994, the Lower Basin states and water users created a Steering Committee to explore options under the ESA to create a proactive program that could cost effectively provide ESA compliance for water and power uses, while still meeting recovery plan objectives and precluding the need to list additional species."**

**Page 62, par. 4: Change first sentence to read, "...fish and wildlife agencies of the three LOWER BASIN states in 1995 to develop..."**

**Page 63, par. 2: Change first sentence to read, "...in a number of ways."**

**Pages 62-63, in general: The discussion which addresses the Lower Colorado Multi-Species Conservation Program seems overly detailed and does not clearly present the program's concept, goals and objectives. A suggestion would be to begin with a discussion which defines the "modified HCP" concept and compares this to the Upper Basin RIPs. A slightly more detailed discussion which presents the reasoning behind utilizing this strategy in the Lower Basin, and the program's goals and objectives could then follow. The chronology of this program is important, but is second to the program's concept, goals and objectives.**

**Page 66, par. 2: The first sentence is not understandable. The draft BO on the preferred alternative found a jeopardy opinion for the razorback sucker and humpback chub and a not likely to jeopardize for the other species that were addressed. The RPA included 7 elements.**

**Page 66, par. 3: A symposium presenting the results of the Glen Canyon "spiked flow" experiment is scheduled to be held on April 8-10, 1997. This may give you a more accurate report of the results than a publication from the New York Times.**

**Page 86, Marketing: Suggest some illustration of the substantial legal issues, e.g., off-reservation leasing, interstate shifting of Winters right between parts of reservations in two states, practicality standard for pre-dam water in deep gorges.**

**Page 96, "equity" bullet: Missing from the stakeholders with equitable claims is Nevada, whose growth potential was markedly miscalculated in the 1920s.**

**Page 97, par. 2: Insert between "few" and "have" the following: ", with the exception of Nevada,". We've been loudly advocating major changes for years.**

Page 98, last par.: Substitute “administers water delivery contracts” for “has considerable authority over water entitlements.”

Page 113, par. 1: Change paragraph to read, “Recommendation: Recovery plans for endangered fish in the Colorado RIVER basin should be integrated in one range-wide recovery plan; recovery goals need to be more clearly defined and SPECIES MANAGEMENT PROGRAMS should be coordinated basin-wide.”

(FYI: There are only two RIPs in the Colorado River basin. The third species management program, the LCR MSCP, is a modified HCP and should not be referred to as a “recovery implementation program”, if in fact you are referring to all three species management strategies in the entire Colorado River basin.)

General comments: Regarding tribal rights, the report should acknowledge that the transferability of tribal rights is an unsettled legal and policy issue, and the report should not take a position on the issue. In addition, you might add Peter Sly’s book on Indian settlements to the reference list.

We found no mention of the California Limitation Act, by which California agreed to confine its use to 4.4 mafy except in years of surplus.