

03/29/02 17:14 FAX 702 293 8614

RECLAMATION

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03/29/02 11:20 FAX 818 543 4685

COLORADO RIVER BOARD

002/008

GRAY DAVIS, Governor

STATE OF CALIFORNIA - THE RESOURCES AGENCY

**COLORADO RIVER BOARD OF CALIFORNIA**

770 FAIRMONT AVENUE, SUITE 100  
GLENDALE, CA 91203-1035  
(818) 543-4678  
(818) 543-4685 FAX



March 29, 2002

Mr. Robert W. Johnson  
Regional Director  
Lower Colorado Regional Office  
U.S. Bureau of Reclamation  
P.O. Box 61470  
Boulder City, Nevada 89006-1470

Re: Five-Year Review of the 1970 Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs

Dear Mr. Johnson:

The Colorado River Board of California (Board) appreciates the opportunity to provide comments associated with the five-year review of the 1970 Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs (Operating Criteria), pursuant to Reclamation's letter of March 7, 2002. The Board has reviewed the Federal Register notices of January 15, and March 6, 2002, (67 FR 1986, and 67 FR 10225, respectively), as well as the Criteria themselves.

Currently, the Board believes that with the adoption and implementation of the Colorado River Interim Surplus Guidelines on January 16, 2001, management and operation of the Colorado River System reservoirs are well defined through 2016. Consequently, there appears to be no need to revise or modify the Operating Criteria at this time.

As the Board has stated in previous comment letters associated with the five-year review of the Operating Criteria, the Board believes that the Long-Range Operating Criteria must remain flexible and not become so rigid that they inhibit the Secretary's ability to adequately address unique conditions and circumstances. By the same token, the Operating Criteria must contain sufficient substance to guide the development of annual operating plans (AOPs) to render them defensible. The Board is committed to continuing to work with Reclamation and the Basin States to ensure that the Operating Criteria provide the sufficient detail, while maintaining adequate flexibility to meet changing conditions within the Colorado River reservoir system.

In summary, given the existence of the current Interim Surplus Guidelines, the Board recommends no change to the current Operating Criteria. However, prior to 2016 and absent the Interim Surplus Guidelines, the Board believes there are issues associated with the Operating Criteria that need to be addressed by Reclamation and the Basin States. The Board has included a copy of the comment package, dated December 31, 1996, submitted by the Board during the last five-year review period. That package identifies a number of issues that will ultimately need to be addressed.

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COLORADO RIVER BOARD

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March 29, 2002  
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Please feel free to contact me at (818) 543-4676 if you have any questions or require additional information.

Sincerely,



Gerald R. Zimmerman  
Executive Director

C: Colorado River Basin States' Representatives

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

## COLORADO RIVER BOARD OF CALIFORNIA

770 FAIRMONT AVENUE, SUITE 100  
DENVER, CO 80202-1035(303) 543-4676  
(818) 543-4685 FAX

December 31, 1996

Mr. Robert W. Johnson  
Regional Director  
Lower Colorado Regional Office  
U.S. Bureau of Reclamation  
P.O. Box 61470  
Boulder City, Nevada 89006-1470

Dear Mr. Johnson:

In a memorandum to "interested parties" dated August 14, 1996, Secretary Babbitt initiated the five-year review of the "Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968, (P.L. 90-537)," hereinafter referenced the Long-Range Operating Criteria. The following initial comments of the Colorado River Board of California, contained herein and in Attachment I, are in response to the Commissioner of Reclamation's notice in the October 31, 1996, Federal Register, stating that comments would be accepted until January 1, 1997. Agencies on the Colorado River Board may also be providing comments. After this initial comment period, the Colorado River Board expects to provide additional comments and input, as the public process outlined by the Bureau of Reclamation for this five-year review unfolds.

The stated purpose of the Long-Range Operating Criteria is to control the coordinated long-range operation of the storage reservoirs constructed under the Colorado River Storage Project Act in the Upper Basin and Lake Mead constructed under the Boulder Canyon Project Act in the Lower Basin. The Long-Range Operating Criteria are, specifically, to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty in compliance with and in consideration of other components of the "Law of the River." Section 602 of the Colorado River Basin Project Act: 1) mandates selected criteria be included in the Long-Range Operating Criteria, 2) makes provision for further criteria to be made a part of the Long-Range Operating Criteria, and 3) allows for the modification of the Long-Range Operating Criteria to better accomplish their purposes, based upon actual operating experience and unforeseen circumstances.

The Long-Range Operating Criteria were promulgated at a time when water demands on the Colorado River System reservoirs were considerably less than the available supply. Since 1970,

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December 31, 1996  
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when these Criteria were promulgated, the need for water from the reservoir system has increased. With the increased demands, has come a need to analyze the Long-Range Operating Criteria to ensure that the Colorado River System reservoirs are being operated:

- 1) in accordance with the Long-Range Operating Criteria as promulgated;
- 2) in accordance with provisions of the "Law of the River" as it currently exists; and
- 3) in accordance with best management practices for the use, management, and supply of water under current conditions and standards.

It is imperative that the Long-Range Operating Criteria provide the necessary guidance for the Secretary of the Interior to annually develop and implement the annual operating plan for the Colorado River reservoir system. When the existing Long-Range Operating Criteria were promulgated in 1970, pursuant to the 1968 Colorado River Basin Project Act, it was envisioned that the criteria may need to be modified, as the conditions changed and as operating experience was gained under the newly developed criteria. With the annual consumptive use in the Lower Basin from the mainstream of the Colorado River now being at, or exceeding, the Lower Basin's basic annual apportionment of 7.5 maf, it is essential that the Long-Range Operating Criteria address the existing conditions and the expected full range of operation of the reservoir system. Furthermore, after its review of the Long-Range Operating Criteria and from its past experience in the consultation process associated with development of annual operating plans for the Colorado River System reservoirs, the Colorado River Board of California questions whether the current criteria are capable of accomplishing those objectives. Thus, during the current five-year review, the criteria should yield the further guidance for development of the annual operating plans called for in Secretary Babbitt's remarks before the Colorado River Water Users Association's Annual Convention in Las Vegas, Nevada, on December 19, 1996. Such criteria must have both a legal and a technically supportable basis. The comments contained in Attachment I list areas that should be addressed.

It is understood that the Long-Range Operating Criteria must remain flexible and not become so rigid that they inhibit the Secretary's ability to adequately address unique conditions and circumstances; however, by the same token, the Criteria must contain sufficient substance to guide the development of annual operating plans to render them defensible against their critics. There is a "grey line" between those criteria that need to be a part of the Long-Range Operating Criteria and those criteria that can be developed for the preparation of annual operating plans for the Colorado River reservoir system. The Colorado River Board is committed to working with you and others to sort this out.

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The Colorado River Board of California appreciates the opportunity afforded it to provide these initial comments and will work with you throughout the process to determine any necessary changes in the Long-Range Operating Criteria that would be warranted to better manage and operate the Colorado River reservoir system.

Sincerely,



Gerald R. Zimmerman  
Executive Director

- c: Bruce Moore, Upper Colorado Region, USBR
- Jayne Harkins, Lower Colorado Region, USBR
- Colorado River Basin States Representatives
- Wayne E. Cook, Upper Colorado River Commission

ATTACHMENT I<sup>1</sup>

After its review of the Long-Range Operating Criteria and from its past experience in the consultation process associated with development of annual operating plans for the Colorado River reservoir system, the Colorado River Board of California has the following specific comments:

- 1) The Long-Range Operating Criteria are being implemented in a piecemeal fashion. Selected provisions of the Long-Range Operating Criteria have been used to drive the development of past annual operating plans, while others were cast aside or ignored. Furthermore, provisions contained in the Long-Range Operating Criteria lack precise definition and are being interpreted by others based upon convenience, rather than in accordance with the intent of the statutes.
- 2) The Long-Range Operating Criteria fail to specifically address the full range of projected reservoir operations. They do not address flood control and spill avoidance at the reservoirs; nor, do they contain sufficient technical detail to guide reservoir operations under surplus or shortage conditions. Also, target reservoir storage and reservoir protection elevations are not addressed in the Criteria.
- 3) Under the current level of requests for water and projected reservoir and hydrologic conditions, the Long-Range Operating Criteria lack necessary provisions to adequately guide annual reservoir operations as well as the annual apportionment and delivery of water. Areas that need further attention include: a) the annual apportionment of Colorado River mainstream water among the Lower Division states, b) the use and further apportionment of apportioned, but unused, Colorado River mainstream water in the Lower Basin in accordance with Article II(b)(6) of the 1964 U.S. Supreme Court Decree in Arizona v. California, c) the use and availability of Colorado River mainstream water in the United States for non-Boulder Canyon Project Act purposes, and d) the delivery of Colorado River water to Mexico in accordance with the 1944 Mexican Water Treaty.
- 4) Criteria for the determination of critical reservoir storage requirements in the Upper Basin and the Lower Basin either have not been developed, or, have not been agreed upon and used. Section 602(a) of the Colorado River Basin Project Act, specifically, calls for a determination of the requirement for the storage of water in the Upper Basin reservoirs and it would be useful to have such a determination to guide the operation of the reservoirs in the Lower Basin.

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<sup>1</sup> Attached to the December 31, 1996, letter from the Colorado River of California to Mr. Robert W. Johnson on the five-year review of "Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs"

- 5) **Consideration of all applicable laws and relevant factors, including water supply risk assessments, are not appropriately being considered in the development of the annual operating plans. Furthermore, the degree of confidence in the risk assessment being applied to water conserved in reservoir storage is not commensurate with the degree of certainty being required for other parameters used to guide the operation of the reservoirs system.**
  
- 6) **Optimization of the beneficial use of the available water resources within the Colorado River Basin and each state's Colorado River apportionment are not primary considerations when the annual operating plans are developed. Inaccurate and speculative estimates of consumptive use within the Upper and Lower Basins are being used in the analyses of reservoir operations and assessment of risk. Furthermore, the Long-Range Operating Criteria seem to hinder, rather than facilitate, programs and reservoir operations, which are consistent with today's best management practices appropriate for the use, management, and supply of water under current conditions and standards.**