

INTRODUCTION TO VOLUME III

Reclamation, acting on behalf of the Secretary, published a Notice of Availability of a DEIS for Colorado River Interim Surplus Criteria, and a schedule of public hearings in the *Federal Register* on July 7, 2000 (Vol.65, No. 131). Additionally, Reclamation published a Notice of Public Availability of Information on the DEIS on August 8, 2000, in the *Federal Register* (Vol. 65, No. 153) for public review and comment. Over 400 copies of the DEIS were distributed to interested federal, Tribal, state, and local entities and members of the general public for review, and the document was also available for public viewing on Reclamation's Lower Colorado Region website.

Public hearings were held to receive oral comments on the DEIS during the month of August 2000. In addition to oral comments made at these hearings, Reclamation received 68 letters with comments pertaining to the DEIS. Reclamation has reviewed all comments received during the Colorado River Interim Surplus Criteria DEIS public comment period.

As a result of Reclamation's review of comments pertaining to the DEIS, and pursuant to the requirements of the NEPA, Reclamation has prepared this FEIS. Volumes I and II of the FEIS contain the revised text of the EIS and the attachments, respectively. Volume III, this volume, contains two parts: Part A discusses oral comments received at public hearings held for the DEIS, and Part B contains copies of comment letters received by Reclamation, accompanied by Reclamation's specific responses to individual issues raised in each letter.

Reclamation received a significant number of comments regarding the purpose and need for this action (development and adoption of interim surplus criteria), and related and ongoing activities. In particular, questions were asked with regard to the relationship of interim surplus criteria to California's efforts to reduce its over reliance on Colorado River water. Reclamation believes that, in addition to the individual responses provided in Part B of this volume, it is appropriate to provide the following general response to these questions.

General Response Pertaining to the Purpose and Need of Interim Surplus Criteria

Reclamation determined in 1999 that there was a need for development of specific surplus criteria (see *Federal Register* Vol. 64, No. 27008 (May 18, 1999) in Chapter 5 of Volume I). Recent experience in preparing the AOPs for the Colorado River Reservoirs has demonstrated the difficulty in making surplus determinations without specific criteria. In addition, the most recent five-year review of the LROC, completed in 1998, produced numerous comments encouraging the Secretary to develop surplus criteria, (see *Federal Register* Vol. 63, No. 9256, at

9258-59 [Feb. 24, 1998].) Many parties, including Reclamation, have long recognized the operational benefits that accrue from development of objective, measurable, predictable criteria to guide operation of important storage reservoirs, such as Lake Mead. At the time of the last review of the LROC, the Secretary found that surplus criteria (and, if adopted, shortage criteria) should: (1) “be specific guidelines that can be used to predict measurable effects in the future, (2) be developed through the AOP process; and (3) include a discussion of the potential effects on Lake Powell spills along with possible mitigation measures.” (See *Federal Register* Vol. 63, at 9259).

In response, in 1999, Reclamation proposed adoption of surplus criteria for the operation of Hoover Dam (See *Federal Register* No. 27008, May 18, 1999). The current approach to adoption of surplus criteria differs from that identified in the last LROC review only in that it utilizes a formal NEPA process for evaluation of impacts as opposed to the more informal AOP process established by the Colorado River Basin Project Act of 1968, as amended. In order to build in the ability to respond to actual operating experience, Reclamation also decided to have such criteria implement the provisions of the Decree (Article II(B)(2)) and the LROC (Article III(3)(b)), and be reviewable on a five-year basis at the same time as the LROC is routinely reviewed.

In addition to these operations-based reasons for adopting surplus criteria, current utilization of Colorado River water in the Lower Basin (which exceeds 7.5 maf), listed as one of the factors at Article III(1)(b)(ii) of the LROC, provides an additional basis for both the adoption of surplus criteria and is a factor that Reclamation considered when choosing a preferred alternative. As a result of operating experience over recent years, it is clear that one of the most important issues for Colorado River management is the need to bring use of Colorado River water into alignment with the allocation regime adopted by Congress in section 4 of the Boulder Canyon Project Act of 1928 (BCPA) (see 43 U.S.C. 617c(a)). The pressing need for attention to this important issue is exacerbated by the over-allocation of the Colorado River due to flawed assumptions of its long-term yield that were incorporated into the 1922 Colorado River Compact. For example, the average annual natural flow of the Colorado River at Lees Ferry (1906 to 1998) has recently been estimated at 15.1 maf, while the average prior to the time of the Compact (1906 to 1921) was 18.1 maf. The regime established by the BCPA limits California to 4.4 maf, absent availability of either surplus water or other unused water.

Reclamation intends to insure that the adoption of surplus criteria will provide objective and predictable criteria in a manner that will facilitate the Secretary’s enforcement of the basic provisions of the *Law of the River*. As such, when Reclamation commenced this process (see *Federal Register* No. 27008-09, May 18, 1999), it recognized that efforts were underway to reduce California’s reliance on surplus deliveries and that it would “take account of progress in that effort, or lack

thereof, in the decision-making process regarding specific surplus criteria.” (*Federal Register* Vol. 64, No. 27009). The information available on California’s efforts led Reclamation to propose that the term of the surplus criteria parallel the period of key activities for California’s planned reduction in use of Colorado River water.

Accordingly, the question of whether to adopt surplus criteria is primarily related to sound water resource management. Having decided that adoption of surplus criteria is appropriate and warranted at this time, the Secretary will consider the impact of interim surplus criteria on California’s need for an appropriate implementation period to reduce its over reliance on Colorado River water. As part of his final decision regarding surplus criteria, the Secretary will integrate the California issues with all other aspects of his watermaster duties, particularly its impacts on other state allocations and Tribal users.

In summary, Reclamation believes that adoption of interim surplus criteria is warranted at this time and believes that adoption of such criteria should complement the Secretary’s watermaster duties on the lower Colorado River, which include facilitating adherence to the Lower Basin’s allocation regime. Further, the adoption of interim surplus criteria is not a component of California’s Colorado River Water Use Plan, but should not frustrate California’s efforts to reduce its Colorado River usage. As such, Reclamation does not believe that the Purpose and Need statement as presented in the DEIS is inadequate. However, in light of the significant commentary on this issue, and in an effort to clarify the information presented in the FEIS, Reclamation has modified the Purpose and Need discussion in Chapter 1 of the FEIS to reference the relationship between the proposed surplus criteria and California’s actions to reduce its dependence on surplus water.