

STATE OF COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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MEMORANDUM

TO: Colorado Water Conservation Board Members

FROM: Randy Seaholm *RS*
Chief, Water Supply Protection

DATE: November 8, 2004

SUBJECT: Agenda Item 25b, November 16-17, 2004 Board Meeting -
Attorney General's Report - Colorado River Compact Issues

Bill Owens
Governor

Russell George
Executive Director

Rod Kuharich
CWCB Director

Dan McAuliffe
Deputy Director

The purpose of this agenda item is to provide a brief update on the development of draft shortage criteria and some of the related issues. Colorado is involved with three distinct but related processes.

Seven Basin State Discussions

The Seven Colorado River Basin States have met and established a technical work group, which has now met four times. Discussions in the technical work group have been focused on the development of, "Guiding Principles for Shortage Criteria." The first meeting identified critical events, such as critical lake levels at Lakes Powell and Mead that were of concern to the states, and the evaluations and modeling that were needed. The second meeting began to focus on some of the sideboards such as the hydrology that should be used, Glen Canyon and Hoover operations and benefits, operational flexibility in the system and Mexican Treaty issues. At the third meeting, we began to look at some model runs that Reclamation had done for the group and ways to look at and present the data. We also started to take a more in-depth look at the many different options that the Lower Basin was considering to save water and become more efficient in their water use. The primary focus of the fourth meeting was the definition of "extraordinary drought" as used in the Mexican Treaty and review of some of the refinements that were made to the model runs. As a result, the group has identified three key triggers (Powell Storage, Powell Release and Mead Storage) and are evaluating at what lake levels and point in time to trigger them. Once the triggers are determined, the discussion then needs to shift to what happens (i.e. how large are the shortages, how long are they in place, etc.). Given the recent letter from the four Upper Basin States, this group will not meet again until after the principles meet in Las Vegas on December 17th.

Upper Colorado River Commission

The substance of the Upper Colorado River Commissions concerns at this point in time are fairly reflected in the letter to the Lower Basin States (attached to the Director's Report). In short, what is the deficiency to the Mexican Treaty delivery, how is it determined and why do the Coordinated Long-Range Operating Criteria set an annual objective minimum release for the Upper Basin that includes one-half of the Mexican Treaty delivery when the Lower Basin is using will in excess of 8.5 MAF of system water? Work is also starting on what to do if a call occurs.

State of Colorado Advisory Group

The State of Colorado has established an advisory group to help advise Colorado's representatives on Colorado River Compact issues and the protection of the Upper Basin's delivery obligation insurance policy in Lake Powell. Furthermore, the group will assist in the research of certain compact issues and provide the state representatives with guidance on how to proceed in the event Lake Powell goes dry and the 10-year running average goes below 75 MAF plus one-half of any deficiency to the Mexican Treaty delivery obligation. Given the growing potential for litigation, especially if the drought continues, staff has requested that money from the "litigation fund" be used to help do the necessary background research.

Recommendation

Staff suggests that if further discussion of the issues that may be subject to potential litigation is desired that such be done in executive session.