

THE SECRETARY OF THE INTERIOR
WASHINGTON

NOV 22 2002

Honorable Gray Davis
Governor of California
Sacramento, California 95814

Dear Governor Davis:

The Bureau of Reclamation, after consultation at a number of meetings between May 2001 and September 16, 2001, with representatives of the Governors of the Colorado River Basin States, the Upper Colorado River Commission, appropriate federal agencies, Indian Tribes and others interested in Colorado River operations, prepared the 2002 Annual Operating Plan (AOP) for Colorado River reservoirs. I approved and transmitted the 2002 AOP on January 14, 2002, to the Governors of the Colorado River Basin States and other members of the Colorado River Management Work Group. This is a supplement to the 2002 AOP, and was the subject of further consultation held on November 19, 2002, with members of the Colorado River Management Work Group, including representatives of the Governors of the Colorado River Basin States.

Taking into account the relevant considerations, the "Full Domestic Surplus" condition was determined to be the criterion governing the operation of Lake Mead for calendar year (CY) 2002 in the 2002 AOP in accordance with Article II(B)(2) of the Decree entered by the Supreme Court in *Arizona v. California*, 376 U.S. 340, 342 (1964); Article III(3)(b) of the Criteria for the Coordinated Long-Range Operation of the Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968; and Section 2(B)(2) of the Interim Surplus Guidelines, published at 66 Fed. Reg. 7772-82 (Jan 25, 2001).

Pursuant to this determination, surplus water is not available for use by agricultural contractors in Arizona, California, or Nevada during CY 2002. The full amount of water available to the California agricultural contractors in Priorities One, Two, and Three was previously approved by the Bureau of Reclamation (Reclamation) pursuant to 43 C.F.R. Pt. 417. Currently, Palo Verde Irrigation District, Imperial Irrigation District and Coachella Valley Water District have requests pending before Reclamation for additional deliveries of water during the remaining weeks of CY 2002.

These pending requests are for water in addition to quantities authorized in approved water orders for the year, and could have the potential to exceed the maximum amount of water available under the determinations made in the 2002 AOP.¹

Subject to the provisions of this supplement to the 2002 AOP, I authorize Reclamation to release water to these three California agricultural contractors to meet their pending requests in excess of their previously approved annual water orders. If the final Supreme Court decree accounting data for CY 2002 show that quantities in excess of previously approved water orders were actually consumed by the California agricultural contractors, Reclamation will impose repayment obligations as authorized by applicable federal law, regulations, Section 5 water delivery contracts, and approved water orders. Completion of repayment for overuse in CY 2002 shall take place within four years beginning in CY 2003 with a minimum of 25% of the overrun returned to the system each year. Repayment for overuse shall be in the form of reduced diversions as a result of adjustments to prospective diversions. Determination of overuse shall be based on final Article V decree accounting data for CY 2002 prepared by Reclamation.²

This authorization for release of additional water to any of the three contractors during the remainder of CY 2002 is subject to the following specific conditions: this supplement shall remain in effect for the remainder of CY 2002; reductions in diversions and consumptive use as a result of compensation for overuse under this supplement to the 2002 AOP shall not count toward compliance with benchmarks established in Section 5 of the Interim Surplus Guidelines or toward water use reductions otherwise required by agreements among the California contractors, including reductions required by the Quantification Settlement Agreement and its related documents; all other provisions of the 2002 AOP remain in effect.

The need for compensation for overuse shall be reduced or eliminated proportionately to the extent water is released from Hoover Dam for flood control purposes, up to the full amount of any remaining compensation obligation. Nothing in this supplement to the 2002 AOP reflects a determination on the part of Reclamation as to the reasonable and beneficial use practices of the contractors receiving water in excess of their previously approved annual water orders. Nothing in this supplement to the 2002 AOP shall serve as precedent for any future Secretarial determination.

¹ Various factors may affect the potential for overuse, including, but not limited to: preliminary data, return flow computation, climatic conditions, and farming activities by each of the California agricultural contractors.

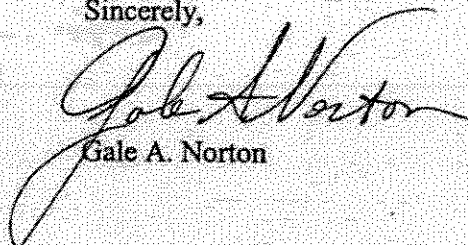
² Reclamation will recognize that the responsibility for repayment for overuse by one California contractor may be assumed by another California contractor under appropriate agreements between California contractors, provided that any such agreements may not modify the total quantity of water to be repaid or the term of repayment.

Honorable Gray Davis

3

The importance of reducing California's use of water in excess of its 4.4 million acre-foot mainstream basic apportionment was a critical factor in the adoption of specific and objective Interim Surplus Guidelines, which are in effect for the first time this year. *See* 67 Fed. Reg. 41733 (June 19, 2002). This fact, combined with recent years of drought, decreasing system storage and increasing demands for Colorado River water supplies, dictate that all users of Colorado River water adhere to the limitations established in conformance with the "Law of the River."

Sincerely,



Gale A. Norton

cc: Mr. Gerald R. Zimmerman
Executive Director
Colorado River Board
of California

Colorado River Management Work Group