

**REGULATING THE USE OF LOWER COLORADO RIVER WATER
WITHOUT AN ENTITLEMENT**

LC-08-016-FONSI

Lower Colorado River Basin beginning at Lee Ferry in the northern part of the Lower Basin and extending downstream to the Southerly International Boundary (SIB) between the United States and Mexico from the river corridor to the exterior boundaries of the Colorado River Aquifer

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Based on a thorough review and analysis of the environmental impacts presented in the Environmental Assessment (EA), Reclamation has determined that the proposed action to regulate the use of lower Colorado River water without an entitlement does not constitute a major Federal action significantly affecting the quality of human environment within the project area. Therefore, an Environmental Impact Statement is not required and Reclamation is issuing this FONSI (Finding of No Significant Impact). Based on the EA and this FONSI, Reclamation authorizes the proposed action to be implemented.

This FONSI has, therefore, been prepared and is submitted to document environmental review and evaluation of the proposed action in compliance with the National Environmental Policy Act of 1969, as amended.

Approved: _____ Date: _____

Background: Reclamation prepared an Environmental Assessment (EA) to evaluate the potential environmental impacts of rulemaking associated with the use of Lower Colorado River water without an entitlement. The rule, developed by Reclamation, ensures long-term sustainability of the lower Colorado River and protects water rights of lower Colorado River water entitlement holders.

Purpose and Need for Proposed Action: The rule establishes procedures that Reclamation will follow in making determinations of unlawful use of lower Colorado River water. The Boulder Canyon Project Act and the Consolidated Decree entered by the United States Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006) (Supreme Court Decree) require a Colorado River water user in the Lower Basin to have a contract with the Secretary of the Interior (Secretary) for the storage, delivery, and use of the water. Unlawful use harms entitlement holders by using water that entitlement holders could legally use otherwise. Currently, each Lower Division State is fully using its apportionment; the prolonged period of drought in the Colorado River Basin has reduced the amount of water stored in Colorado River reservoirs. Thus, Reclamation concludes that rulemaking is necessary and appropriate.

Recommended Alternative: Reclamation will establish a rule that will help ensure the long-term sustainability of the lower Colorado River and protect the water rights of lower Colorado River water entitlement holders. The rule establishes procedures that Reclamation will follow in making determinations of unlawful use of lower Colorado River water.

Alternative Actions: The alternative to rulemaking is to take no action. This alternative was eliminated because:

- Each Lower Division State is fully utilizing its respective apportionment;
- The current prolonged drought in the Colorado River Basin has reduced water stored in Colorado River reservoirs;
- Reclamation would fail to ensure that water users, other than those users of Colorado River water with a Secretarial reservation or decreed rights identified by the Supreme Court Decree, use Colorado River water in the Lower Basin through a contract with the Secretary;
- Unlawful use of Colorado River water in the Lower Basin may escalate.

Environmental Impacts:

There are no cumulative impacts. Adoption and implementation of the rule will address and eliminate the use of Colorado River water in the Lower Basin without an entitlement. The impact is administrative in nature, and will cause no physical changes in the management of the lower Colorado River.

Public Comment Process and Consultations:

Persons, agencies, and groups consulted include the Colorado River Commission of Nevada, the Arizona Department of Water Resources, and the Colorado River Board of California. In addition, three Native American tribes were consulted; these included the Colorado River Indian

Tribes, the Fort Mojave Indian Tribe, and the Chemehuevi Indian Tribe. The Cocopah and Quechan Tribes were invited to meetings but did not attend.

Reclamation conducted four meetings. These included the following public meetings:

- Riverside County (Blythe), California – September 25, 2001
- Needles, California – September 9, 2001
- Bouse, Arizona – December 13, 2004
- Parker, Arizona – December 14, 2004