

## **Appendix S**

### **Draft Interim Guidelines for the Operation of Lake Powell and Lake Mead**

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The information provided in this Appendix S is intended to provide the public with draft information on the structure and content of the type of guidelines that the Department is considering that would implement the proposed federal action. This information is published herein in draft form, and is subject to further modification and refinement. Publication of this information does not represent any final determination by the Department on any of the issues addressed in these draft guidelines. Further, additional and updated information regarding the content and development of the information in these draft guidelines that would be implemented by a Record of Decision is anticipated to be provided to the public through the dedicated project website, (<http://www.usbr.gov/lc/region/programs/strategies.html>) following publication of this Final Environmental Impact Statement.



Appendix S

**I. Introduction**

**A. Setting**

[text to be inserted]

**B. Purpose and Need**

[text to be inserted]

**C. Results of Scoping**

[text to be inserted]

**D. Scope of Guidelines**

[text to be inserted]

**II. Operational Setting**

**A. LROC**

[text to be inserted]

**B. Interim Surplus Guidelines (ISG)**

[text to be inserted]

**C. AOP**

[text to be inserted]

### III. Conditions of Implementation

#### A. Forbearance

##### 1. Role of Forbearance Agreements within the Context of the Law of the River and Relationship to Intentionally Created Surplus (ICS).

For the purposes of these Guidelines, the term “forbearance agreements” refers to agreements that a party who has a right to surplus Colorado River water could enter into that would provide that party’s agreement to forgo (or not exercise) its right to surplus Colorado River water. In any such agreements, the party agrees to “forbear” or refrain from exercising its right to surplus Colorado River water under the specified terms and conditions of the applicable agreement. Through such agreements, increased flexibility of Colorado River water management can be achieved – resulting in greater conservation of water than would otherwise be accomplished.

In Years in which the Secretary determines that sufficient Mainstream water is available for delivery to satisfy annual consumptive use in the Lower Division states in excess of 7.5 maf, Article II(B)(2) of the Consolidated Decree directs the Secretary to apportion such surplus Mainstream water 50% for use in California, 46% for use in Arizona, and 4% for use in Nevada. The Boulder Canyon Project Act and Articles II(B)(2) and II(B)(6) of the Consolidated Decree, taken together, authorize the Secretary to apportion surplus water and to deliver one Lower Division state’s unused apportionment for use in another Lower Division state. Pursuant to such authority and for the purpose of increasing the efficiency, flexibility, and certainty of Colorado River management and thereby helping satisfy the current and projected regional water demands, the Secretary determined that it is prudent and desirable to promulgate guidelines to establish a procedural framework for facilitating the creation and delivery of ICS within the Lower Basin.

In the absence of forbearance, surplus water is apportioned for use in the Lower Division states according to the specific percentages provided in Article II(B)(2) of the Consolidated Decree discussed above. In order to allow for management flexibility, the seven Colorado River Basin States have recommended an operational program for the creation and delivery of ICS. In furtherance of this recommendation, numerous major water users within the Lower Basin have identified their willingness, under specified circumstances, to participate in such an operational program. These parties have submitted a draft “Forbearance Agreement,” as preliminarily approved by the parties, as part of a package of documents (Appendix J) submitted for consideration by the Secretary as a necessary element to enable implementation of the operations contemplated by the Basin States Alternative. The Secretary has developed a Preferred Alternative based on this information, as well as other information submitted during the NEPA process.

The parties to the Forbearance Agreement have indicated that they intend that the Agreement provide the appropriate legal mechanism to achieve successful

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implementation of this element of the Preferred Alternative. The parties have indicated that among the conditions on their forbearance, they will forbear only with respect to a specified ICS volume and only to ICS created by projects described in exhibits attached to the Forbearance Agreement or added thereto by written consent of all parties. Given the voluntary nature of the forbearance concept, it is appropriate for the parties to clearly identify the limited conditions upon which their forbearance is granted.

Through adoption and implementation of these Guidelines, the Secretary will only approve the creation, delivery and use of ICS in a manner that is fully consistent with the provisions of the Consolidated Decree, including Articles II(B)(2) and II(B)(6) therein. The Secretary will require forbearance by the State of Arizona, the Colorado River Board of California, and the Colorado River Commission of Nevada for implementation of this element of these Guidelines (regarding ICS). If, in the opinion of the Secretary, the State of Arizona or the Colorado River Board of California or the Colorado River Commission of Nevada, unreasonably withhold forbearance, the Secretary may, after consultation with the Basin States, modify these Guidelines. Moreover, the Secretary will ensure that implementation of the ICS mechanism does not infringe on the rights of any third party who is a Contractor and who is not a party to the Forbearance Agreement.

### 2. Monitoring Implementation.

Under these Guidelines, Colorado River water will continue to be allocated for use among the Lower Division states in a manner consistent with the provisions of the Consolidated Decree. It is expected that Lower Division states and individual Contractors for Colorado River water have or will adopt arrangements that will affect utilization of Colorado River water during the Interim Period. It is expected that water orders from Colorado River Contractors will be submitted to reflect forbearance arrangements by Lower Division states and individual Contractors. The Secretary will deliver Colorado River water to Contractors in a manner consistent with these arrangements, provided that any such arrangements are consistent with the BCPA, the Consolidated Decree and do not infringe on the rights of third parties. Surplus water will only be delivered to entities with contracts for surplus water. ICS will be delivered pursuant to Section 3.C. of these Guidelines and a Delivery Agreement.

## B. Delivery Agreement

Article II(B)(5) of the Consolidated Decree in *Arizona v. California* states that mainstream Colorado River water shall be released or delivered to water users in Arizona, California, and Nevada “only pursuant to valid contracts therefore made with such users by the Secretary of the Interior, pursuant to Section 5 of the Boulder Canyon Project Act or any other applicable federal statute.” Section 5 of the Boulder Canyon Project Act authorizes the Secretary to enter into such contracts.

Numerous Contractors in Arizona, California, and Nevada now hold contracts which entitle them to the delivery of Colorado River water under the circumstances and in the

priorities specified in the individual contracts. Contracts entered into prior to the adoption of these Guidelines do not, however, expressly address circumstances in which ICS or DSS might be created or delivered.

To ensure the requirements of Section 5 of the Boulder Canyon Project Act and Article II(B)(5) of the Consolidated Decree are complied with, and to reduce the possibility of ambiguity, the Secretary anticipates entering into delivery contracts with any person or persons intending to create ICS or DSS. Such contracts are expected to address the requirements set forth in the Guidelines for the approval of ICS or DSS plans, the certification and verification of the ICS or DSS created under the plans, the ordering and delivery of ICS or DSS, the accounting for ICS or DSS in the annual report filed with the United States Supreme Court in accordance with Article V of the Consolidated Decree, and such other matters as may bear on the delivery of the ICS or DSS, as for example the point of delivery and place of use, if not already provided for under existing contracts.

### **C. Mexico**

[text to be inserted]

### **D. Intentionally Created Surplus**

Findings - ICS may be created through projects that create water system efficiency or extraordinary conservation or tributary conservation or the importation of non-Colorado River System water into the Colorado River Mainstream. ICS is consistent with the concept that entities may take actions to augment storage of water in the lower Colorado River Basin. The ICS shall be delivered to the Contractor that created it pursuant to both Article II(B)(2) of the Consolidated Decree and Forbearance Agreements.

Implementation of these Guidelines for ICS is conditioned upon execution of Forbearance Agreements and Delivery Agreements as further provided for in these Guidelines.

Purposes - The primary purposes of ICS are to: 1) Encourage the efficient use and management of Colorado River water; and to increase the water supply in Colorado River System reservoirs, through the creation, delivery and use of ICS; 2) Help minimize or avoid shortages to water users in the Lower Basin; 3) Benefit storage of water in both Lake Powell and Lake Mead; 4) Increase the surface elevations of both Lake Powell and Lake Mead to higher levels than would have otherwise occurred; and 5) Assure any Contractor that invests in conservation or augmentation to create ICS that no other Contractor will claim the ICS created by the Contractor pursuant to an approved plan by the Secretary.

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Quantities - The maximum quantities of Extraordinary Conservation ICS that may be accumulated in all ICS Accounts, at any time, upon the effective date of these Guidelines is limited to the amounts provided in Section 3.B.5. of these Guidelines. The maximum quantities of Extraordinary Conservation ICS that may be created and/or delivered in any given Year are also limited to the amounts provided in Sections 3.B.4. and 3.C.4., respectively. As described in the Final EIS, Reclamation has analyzed ICS amounts in excess of the amounts approved by this Record of Decision and provided in these Guidelines. Any decision by the Secretary to increase the amounts in excess of the amounts provided in these Guidelines would be based on actual operating experience and would require modification of these Guidelines after consultation with the Basin States.

**E. Relationship with Existing Law**

These Guidelines are not intended to, and do not:

1. guarantee or assure any water user a firm supply for any specified period;
2. change or expand existing authorities under applicable federal law, except as specifically provided herein with respect to determinations under the Long Range Operating Criteria and administration of water supplies during the effective period of these Guidelines;
3. address intrastate storage or intrastate distribution of water, except as may be specifically provided by Lower Division states and individual contractors for Colorado River water who may adopt arrangements that will affect utilization of Colorado River water during the effective period of these Guidelines;
4. change the apportionments made for use within individual States, or in any way impair or impede the right of the Upper Basin to consumptively use water available to that Basin under the Colorado River Compact;
5. affect any obligation of any Upper Division state under the Colorado River Compact;
6. affect any right of any State or of the United States under Sec. 14 of the Colorado River Storage Project Act of 1956 (70 Stat. 105); Sec. 601(c) of the Colorado River Basin Project Act of 1968 (82 Stat. 885); the California Limitation Act (Act of March 4, 1929; Ch. 16, 48th Sess.); or any other provision of applicable federal law;
7. affect the rights of any holder of present perfected rights or reserved rights, which rights shall be satisfied within the apportionment of the State within which the use is made, and in the Lower Basin, in accordance with the Consolidated Decree; or
8. constitute an interpretation or application of the 1944 Treaty between the United States and Mexico Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande (1944 Treaty) or to represent current United

States policy or a determination future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions including consultation with the Basin States regarding the proposed federal action and implementation of the 1944 Treaty with Mexico through the International Boundary and Water Commission (IBWC) in consultation with the Department of State.

## F. Definitions

For purposes of these Guidelines, the following definitions apply:

1. “24-Month Study” refers to the operational study that reflects the current Annual Operating Plan that is updated each month by Reclamation to project future reservoir contents and releases. The projections are updated each month using the previous month’s reservoir contents and the latest inflow and water use forecasts. In these Guidelines, the term “projected on January 1” shall mean the projection of the January 1 reservoir contents provided by the 24-Month Study that is conducted in August of the previous Year.
2. “AOP” shall mean the Annual Operating Plan for the Colorado River System Reservoirs.
3. “BCPA” shall mean the Boulder Canyon Project Act of 1928 (28 Stat. 1057).
4. “Basin States” shall mean the seven Colorado River Basin States of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming.
5. “Certification Report” shall mean the written documentation provided by a Contractor that provides the Secretary with sufficient information to allow the Secretary to determine whether the quantity of ICS or DSS approved by the Secretary in an approved plan has been created and whether the creation was consistent with the approved plan.
6. “Colorado River System” shall have the same meaning as defined in the 1922 Colorado River Compact.
7. “Consolidated Decree” shall mean the Consolidated Decree entered by the United States Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006).
8. “Contractor” shall mean an entity holding an entitlement to Mainstream water under (a) the Consolidated Decree, (b) a water delivery contract with the United States through the Secretary, or (c) a reservation of water by the Secretary, whether the entitlement is obtained under (a), (b) or (c) before or after the adoption of these Guidelines.
9. “DSS Account” shall mean records established by the Secretary regarding DSS.



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10. “Delivery Agreement” shall mean an agreement consistent with these Guidelines entered into between the Secretary of the Interior and one or more Contractors creating ICS.
11. “Developed Shortage Supply (“DSS”)” shall mean water available for use by a Contractor under the terms and conditions of a Delivery Agreement and Section 4 of these Guidelines in a Shortage Condition, under Article III(B)(3) of the Consolidated Decree.
12. “Direct Delivery Domestic Use” shall mean direct delivery of water to domestic end users or other municipal and industrial water providers within the contractor’s area of normal service, including incidental regulation of Colorado River water supplies within the Year of operation but not including Off-stream Banking. For the Metropolitan Water District of Southern California (MWD), Direct Delivery Domestic Use shall include delivery of water to end users within its area of normal service, incidental regulation of Colorado River water supplies within the Year of operation, and Off-stream Banking only with water delivered through the Colorado River Aqueduct.
13. “Domestic Use” shall have the same meaning as defined in the 1922 Colorado River Compact.
14. “Forbearance Agreement” shall mean an agreement under which one or more Contractors agree to forbear a right to ICS, under a water delivery contract or the Consolidated Decree.
15. “ICS Account” shall mean records established by the Secretary regarding ICS.
16. “ICS Determination” shall mean a determination by the Secretary that ICS is available for delivery.
17. “Intentionally Created Surplus (“ICS”)” shall mean surplus Colorado River System water available for use under the terms and conditions of a Delivery Agreement, a Forbearance Agreement, and these Guidelines.
  - a. ICS created through extraordinary conservation, as provided for in Section 3.A.1., shall be referred to as “Extraordinary Conservation ICS.”
  - b. ICS created through tributary conservation, as provided for in Section 3.A.2., shall be referred to as “Tributary Conservation ICS.”
  - c. ICS created through system efficiency projects, as provided for in Section 3.A.3., shall be referred to as “System Efficiency ICS.”
  - d. ICS created through the importation of non-Colorado River System Water, as provided for in Section 3.A.4., shall be referred to as “Imported ICS.”

18. “Interim Period” shall mean the effective period as described in Section 8.
19. “Long Range Operating Criteria (“LROC”)” shall mean the Criteria for the Coordinated Long Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. No. 90-537), published at 35 Fed. Reg. 8951 (June 10, 1970), as amended March 21, 2005.
20. “Lower Division states” shall mean the Colorado River Basin States of Arizona, California, and Nevada.
21. “Mainstream” shall have the same meaning as defined in the Consolidated Decree.
22. “Off-stream Banking” shall mean the diversion of Colorado River water to underground storage facilities for use in subsequent Years from the facility used by a Contractor diverting such water.
23. “ROD” shall mean the Record of Decision issued by the Secretary for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead.
24. “Upper Division states” shall mean the Colorado River Basin States of Colorado, New Mexico, Utah, and Wyoming.
25. “Water Year” shall mean October 1 through September 30.
26. “Year” shall mean calendar year.

**G. Interim Guidelines for the Operation of Lake Powell and Lake Mead**

These Guidelines shall include Sections III.A., B., E., and F. above and this Section III.G. These Guidelines which shall implement and be used for determinations made pursuant to the Long Range Operating Criteria during the effective period identified in Section 8, are hereby adopted:

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**Section 1. Allocation of Unused Basic Apportionment Water Under Article II(B)(6)**

A. Introduction

Article II(B)(6) of the Consolidated Decree allows the Secretary to allocate water that is apportioned to one Lower Division state, but is for any reason unused in that State, to another Lower Division state. This determination is made for one Year only and no rights to recurrent use of the water accrue to the state that receives the allocated water.

B. Application to Unused Basic Apportionment

Before making a determination of a Surplus Condition under these Guidelines, the Secretary will determine the quantity of apportioned but unused water excluding ICS created in that Year from the basic apportionments under Article II(B)(6), and will allocate such water in the following order of priority:

1. Meet the Direct Delivery Domestic Use requirements of MWD and Southern Nevada Water Authority (SNWA), allocated as agreed by said agencies;
2. Meet the needs for Off-stream Banking activities for use in California by MWD and for use in Nevada by SNWA, allocated as agreed by said agencies; and
3. Meet the other needs for water in California in accordance with the California Seven-Party Agreement as supplemented by the Quantification Settlement Agreement.

## Section 2. Determination of Lake Mead Operation During the Interim Period

### A. Normal Conditions

1. Lake Mead above elevation 1075 feet and below elevation 1145 feet

In Years when Lake Mead elevation is projected to be above 1075 feet and below elevation 1145 feet on January 1, the Secretary shall determine either a Normal Condition, or, under Section 2.B.5., an ICS Surplus Condition.

### B. Surplus Conditions

1. Partial Domestic Surplus

[Adopted January 16, 2001; Deleted [insert Month Day, Year]]

2. Domestic Surplus

(Lake Mead at or above Elevation 1145 feet and below the Elevation that Triggers a Quantified Surplus (70R Strategy))

In years when Lake Mead content is projected to be at or above elevation 1145 feet, but less than the amount which would initiate a Surplus under Section 2.B.3., Quantified Surplus, or Section 2.B.4., Flood Control Surplus, on January 1, the Secretary shall determine a Domestic Surplus Condition. The amount of such Surplus shall equal –

- a. From the effective date of these Guidelines through December 31, 2015 (through preparation of the 2016 AOP):
  - 1) For Direct Delivery Domestic Use by MWD, 1.250 maf reduced by the amount of basic apportionment available to MWD.
  - 2) For use by SNWA, the Direct Delivery Domestic Use within the SNWA service area in excess of the State of Nevada's basic apportionment.
  - 3) For use in Arizona, the Direct Delivery Domestic Use in excess of Arizona's basic apportionment.
- b. From January 1, 2016 (for preparation of the 2017 AOP) through December 31, 2025 (through preparation of the 2026 AOP):
  - 1) For use by MWD, 250,000 af per Year in addition to the amount of California's basic apportionment available to MWD.

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- 2) For use by SNWA, 100,000 af per Year in addition to the amount of Nevada's basic apportionment available to SNWA.
- 3) For use in Arizona, 100,000 af per Year in addition to the amount of Arizona's basic apportionment available to Arizona contractors.

3. Quantified Surplus (70R Strategy)<sup>1</sup>

In years when the Secretary determines that water should be delivered for beneficial consumptive use to reduce the risk of potential reservoir spills based on the 70R Strategy the Secretary shall determine a Quantified Surplus Condition and allocate a Quantified Surplus sequentially as follows:

- a. Establish the volume of the Quantified Surplus. For the purpose of determining the existence, and establishing the volume, of Quantified Surplus, the Secretary shall not consider any volume of ICS as defined in these Guidelines.
- b. Allocate and distribute the Quantified Surplus 50 percent to California, 46 percent to Arizona, and 4 percent to Nevada, subject to c. through e. that follow.
- c. Distribute California's share first to meet basic apportionment demands and MWD's demands, and then to California Priorities 6 and 7 and other surplus contracts. Distribute Nevada's share first to meet basic apportionment demands and then to the remaining demands. Distribute Arizona's share to surplus demands in Arizona including Off-stream Banking and interstate banking demands. Nevada shall receive first priority for interstate banking in Arizona.
- d. Distribute any unused share of the Quantified Surplus in accordance with Section 1.
- e. Determine whether MWD, SNWA and Arizona have received the amount of water they would have received under Section 2.B.2., if a Quantified Surplus Condition had not been determined. If they have not, then determine and meet all demands provided for in Section 2.B.2.

4. Flood Control Surplus

In years in which the Secretary makes space-building or flood control releases<sup>2</sup> pursuant to the 1984 Field Working Agreement between Reclamation and the Army Corps of

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<sup>1</sup>70R is a spill avoidance strategy that determines a surplus if the January 1 projected system storage space is less than the space required by the flood control criteria, assuming a natural inflow of 17.4 maf (the 70<sup>th</sup> percentile non-exceedence flow). See ISG Final EIS at Section 2.3.1.2.

<sup>2</sup> Under current practice, surplus waters pursuant to the 1944 Treaty are made available to Mexico (when Mexico may schedule up to an additional 0.2 maf) when flood control releases are made. These Guidelines are not intended to identify, or change in any manner that practice. Any issues relating to the implementation of the Treaty, including

Engineers (as may be amended), the Secretary shall determine a Flood Control Surplus for the remainder of that Year or the subsequent Year. In such years, releases will be made to satisfy all beneficial uses within the United States, including unlimited Off-stream Banking.

**5. ICS Surplus**

- a. In Years in which Lake Mead's elevation is projected to be above elevation 1075 feet on January 1, a Flood Control Surplus has not been determined, and delivery of ICS has been requested, the Secretary may determine an ICS Surplus Condition in lieu of other operating conditions that are based solely on the elevation of Lake Mead.
- b. In Years in which a Quantified Surplus or a Domestic Surplus is available to a Contractor, the Secretary shall first deliver the Quantified Surplus or Domestic Surplus before delivering any requested ICS to that Contractor. If available Quantified Surplus or Domestic Surplus is insufficient to meet a Contractor's demands, the Secretary shall deliver ICS available in that Contractor's ICS Account at the request of the Contractor, subject to the provisions of Section 3.C.

**C. Allocation of Colorado River Water and Forbearance and Reparation Arrangements**

[Content of 2001 ISG Section 2.C., Allocation of Colorado River Water and Forbearance and Reparation Arrangements, is now found at III.A., as modified]

**D. Shortage Conditions**

1. Deliveries to the Lower Division States during Shortage Condition Years shall be implemented in the following manner:
  - a. In Years when Lake Mead content is projected to be at or below elevation 1075 feet and at or above 1050 feet on January 1, a quantity of 7.167 maf shall be apportioned for consumptive use in the Lower Division States of which 2.48 maf shall be apportioned for use in Arizona and 287,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing

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any potential changes in approach relating to surplus declarations under the 1944 Treaty, must be addressed in a bilateral fashion with the Republic of Mexico.

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Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

- b. In Years when Lake Mead content is projected to be below elevation 1050 feet and at or above 1025 feet on January 1, a quantity of 7.083 maf shall be apportioned for consumptive use in the Lower Division States of which 2.4 maf shall be apportioned for use in Arizona and 283,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.
  - c. In Years when Lake Mead content is projected to be below elevation 1025 feet on January 1, a quantity of 7.0 maf shall be apportioned for consumptive use in the Lower Division States of which 2.32 maf shall be apportioned for use in Arizona and 280,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.
2. During a Year when the Secretary has determined a Shortage Condition, the Secretary shall deliver Developed Shortage Supply available in a Contractor's DSS Account at the request of the Contractor, subject to the provisions of Section 4.C.

### **Section 3. Implementation of Intentionally Created Surplus**

[Content of 2001 ISG Section 3., Implementation of Guidelines, is now found at Section 7., as modified herein.]

#### **A. Categories of ICS**

##### **1. Extraordinary Conservation ICS**

A Contractor may create Extraordinary Conservation ICS through the following activities:

- a. Fallowing of land that currently is, historically was, and otherwise would have been irrigated in the next Year.
- b. Canal lining programs.
- c. Desalination programs in which the desalinated water is used in lieu of Mainstream water.
- d. Extraordinary conservation programs that existed on January 1, 2006.
- e. Extraordinary Conservation ICS demonstration programs pursuant to a letter agreement entered into between the United States Bureau of Reclamation and the Contractor prior to the effective date of these Guidelines.
- f. Tributary Conservation ICS created under Section 3.A.2. and not delivered in the Year created.
- g. Imported ICS created under Section 3.A.4. and not delivered in the Year created.
- h. Other extraordinary conservation measures, including but not limited to, development and acquisition of a non-Colorado River System water supply used in lieu of Colorado River Mainstream water within the same state, in consultation with the Basin States.

##### **2. Tributary Conservation ICS**

A Contractor may create Tributary Conservation ICS by purchasing documented water rights on Colorado River System tributaries within the Contractor's state if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 3.D. Any Tributary Conservation ICS not delivered pursuant to Section 3.C. or deducted pursuant to Section 3.B.2. in the Year it was created will, at the beginning of the



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following Year, be converted to Extraordinary Conservation ICS and will thereafter be subject to all provisions applicable to Extraordinary Conservation ICS. Tributary Conservation ICS may be delivered for Domestic Use only.

### 3. System Efficiency ICS

A Contractor may make contributions of capital<sup>3</sup> to the Secretary for use in projects designed to realize system efficiencies that save water that would otherwise be lost from the Colorado River Mainstream in the United States. An amount of water equal to a portion of the water conserved would be made available to contributing Contractor(s) by the Secretary as System Efficiency ICS. System efficiency projects are intended only to provide temporary water supplies. System Efficiency ICS will be delivered to the contributing Contractor(s) on a schedule of annual deliveries as provided in an exhibit to a Forbearance Agreement and Delivery Agreement. The Secretary may identify potential system efficiency projects, terms for capital participation in such projects, and types and amounts of benefits the Secretary could provide in consideration of non-federal capital contributions to system efficiency projects, including identification of a portion of the water saved by such projects.

### 4. Imported ICS

A Contractor may create Imported ICS by introducing non-Colorado River System water in that Contractor's state into the Colorado River Mainstream. Contractors proposing to create Imported ICS shall make arrangements with the Secretary, contractual or otherwise, to ensure no interference with the Secretary's management of Colorado River System reservoirs and regulatory structures. Any arrangement shall provide that the Contractor must obtain appropriate permits or other authorizations required by state and federal law. The actual amount of any Imported ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 3.D. Any Imported ICS not delivered pursuant to Section 3.C. or deducted pursuant to Section 3.B.2. in the Year it was created will be converted, at the beginning of the following Year, to Extraordinary Conservation ICS and thereafter will be subject to all provisions applicable to Extraordinary Conservation ICS.

## B. Creation of ICS

A Contractor may only create ICS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of ICS to the Secretary demonstrating how all requirements of these Guidelines will be met in the Contractor's creation of ICS. Until such plan is reviewed and approved by the

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<sup>3</sup> To the extent permitted by federal law, monies to pay construction, operation, maintenance, repair, and/or replacement costs.

Secretary, subject to such environmental compliance as may be required, such plan or any ICS purportedly created through it shall not be a basis for creation of ICS. An ICS plan will consist of at a minimum the following information:

- a. Project description, including what extraordinary measures will be taken to conserve or import water;
- b. Term of the activity;
- c. Estimate of the amount of water that will be conserved or imported;
- d. Proposed methodology for verification of the amount of water conserved or imported; and
- e. Documentation regarding any state or federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of ICS.

A Contractor may modify its approved plan for creation of ICS during any Year, subject to approval by the Secretary. A Contractor with an approved multi-Year plan for System Efficiency ICS is not required to seek further approval by the Secretary in subsequent Years unless the Contractor seeks to modify the plan.

2. There shall be a one-time deduction of five percent (5%) from the amount of ICS in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead. This one-time system assessment shall not apply to:
  - a. System Efficiency ICS created pursuant to Section 3.B. because a large portion of the water conserved by this type of project will increase the quantity of system water in storage over time.
  - b. Extraordinary Conservation ICS created by conversion of Tributary Conservation ICS that was not delivered in the Year created, pursuant to Section 3.B. because 5% of the ICS is deducted at the time the Tributary Conservation ICS is created.
  - c. Extraordinary Conservation ICS created by conversion of Imported ICS that was not delivered in the Year created, pursuant to Section 3.B. because 5% of the ICS is deducted at the time the Imported ICS is created.
  - d. ICS created under demonstration programs in 2006 and 2007 which has already been assessed the 5% system assessment.
3. Except as provided in Sections 3.A.2. and 3.A.4., Extraordinary Conservation ICS can only be created if such water would have otherwise been beneficially used.

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4. The maximum total amount of Extraordinary Conservation ICS that can be created during any Year is limited to the following:
  - a. 400,000 af for California Contractors;
  - b. 125,000 af for Nevada Contractors; and
  - c. 100,000 af for Arizona Contractors.
5. The maximum quantity of Extraordinary Conservation ICS that may be accumulated in all ICS Accounts, at any time, is limited to the following:
  - a. 1.5 maf for California Contractors;
  - b. 300,000 af for Nevada Contractors; and
  - c. 300,000 af for Arizona Contractors.
6. Except as provided in Sections 3.A.2. and 3.A.4., no category of surplus water can be used to create Extraordinary Conservation ICS.
7. The quantity of Extraordinary Conservation ICS remaining in an ICS Account at the end of each Year shall be diminished by annual evaporation losses of 3%. Losses shall be applied annually to the end-of-the-Year balance of Extraordinary Conservation ICS beginning in the Year after the ICS is created and continuing until no Extraordinary Conservation ICS remains in Lake Mead. No evaporation losses shall be assessed during a Year in which the Secretary has determined a Shortage Condition.
8. Extraordinary Conservation ICS from a project within a state may only be credited to the ICS Account of a Contractor within that state that has funded or implemented the project creating ICS, or to the ICS Account of a Contractor within the same state as the funding entity and project and with written agreement of the funding entity.
9. A Contractor must notify Reclamation by [insert Month Day] of the amount of ICS it wishes to create for the subsequent Year pursuant to an existing, approved plan. A Contractor may request mid-Year modification(s) to reduce the amount of ICS created during that Year, subject to the requirements of this Section 3.B. A Contractor cannot increase the amount of ICS it had previously scheduled to create during the Year.

C. Delivery of ICS

The Secretary shall deliver ICS in accordance with the following conditions:

1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding ICS.
2. The Secretary has determined an ICS Surplus Condition.
3. The existence of Forbearance Agreements necessary to bring the delivery of the ICS into compliance with Articles II(B)(2) and II(B)(6) of the Consolidated Decree.
4. A limitation on the total amount of Extraordinary Conservation ICS that may be delivered in any Year is as follows:
  - a. 400,000 af for California Contractors;
  - b. 300,000 af for Nevada Contractors; and
  - c. 300,000 af for Arizona Contractors.
5. If the May 24-month study for that Year indicates that a Shortage Condition would be determined in the succeeding Year if the requested amounts for the current Year under Section 3.C. were delivered, the Secretary may deliver less than the amounts of ICS requested to be delivered.
6. If the Secretary releases Flood Control Surplus water, Extraordinary Conservation ICS accumulated in ICS Accounts shall be reduced by the amount of the Flood Control Surplus on an acre-foot for acre-foot basis until no Extraordinary Conservation ICS remains. The reductions to the ICS Accounts shall be shared on a pro-rata basis among all Contractors that have accumulated Extraordinary Conservation ICS.
7. If a Contractor has an overrun payback obligation, as described in the October 10, 2003 Inadvertent Overrun and Payback Policy or Exhibit C to the October 10, 2003 Colorado River Water Delivery Agreement, the Contractor must pay the overrun payback obligation in full before requesting or receiving delivery of ICS. The Contractor's ICS account shall be reduced by the amount of the overrun payback obligation in order to pay the overrun payback obligation.
8. If more ICS is delivered to a Contractor than is actually available for delivery to the Contractor in that Year, then the excess ICS delivered shall be treated as an inadvertent overrun until it is fully repaid.
9. A Contractor may request mid-Year modification(s) to increase or reduce the amount of ICS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this Section 3.C.

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10. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of ICS shall be open to inspection by the Secretary and by any Contractor or Basin State.

D. Accounting for ICS

The Secretary shall develop procedures to account for and verify, on an annual basis, ICS creation and delivery. At a minimum such procedures shall include the following:

1. A Contractor shall submit for the Secretary's review and verification, appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of ICS created and that the method of creation was consistent with the Contractor's approved ICS plan, a Forbearance Agreement, and a Delivery Agreement. Such information shall be submitted by [insert Month Date] of the Year following the creation of the ICS.
2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to this section, and provide a final written decision to the Contractor regarding the amount of ICS created. The results of such final written decisions shall be made available to the public through publication pursuant to Section 3.D.3. and other appropriate means. A contractor and any party to an applicable Forbearance Agreement may appeal the Regional Director's verification decision to the Secretary and through judicial processes.
3. Each Year the Decree Accounting Report will be supplemented to include ICS Account balance information for each Contractor and shall address ICS creation, deliveries, amounts no longer available for delivery due to releases for flood control purposes, deductions pursuant to Section 3.B.2., deductions due to annual evaporation losses pursuant to Section 3.B.7., any amounts of ICS converted to Extraordinary Conservation ICS, and ICS remaining available for delivery.

#### **Section 4. Implementation of Developed Shortage Supply**

[Content of 2001 ISG Section 4., Effective Period & Termination, is now found at Section 8., as modified herein.]

##### **A. Categories of DSS**

###### **1. Tributary Conservation DSS**

A Contractor may create Tributary Conservation DSS by purchasing documented water rights on Colorado River System tributaries within the Contractor's state if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation DSS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 4.D. Tributary Conservation DSS may be delivered for Domestic Use only.

###### **2. Imported DSS**

A Contractor may create Imported DSS by introducing non-Colorado River System water in that Contractor's state into the Colorado River Mainstream, making sufficient arrangements with the Secretary, contractual or otherwise, to ensure no interference with the Secretary's management of Colorado River System reservoirs and regulatory structures. Any arrangement shall provide that the Contractor must obtain appropriate permits or other authorizations required by state and federal law. The actual amount of any Imported DSS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 4.D.

##### **B. Creation of DSS**

A Contractor may only create DSS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of DSS to the Secretary demonstrating how all requirements of these Guidelines will be met in the Contractor's creation of DSS. Until such plan is reviewed and approved by the Secretary, subject to such environmental compliance as may be required, such plan, or any DSS purportedly created through it, shall not be a basis for creation of DSS. A DSS plan will consist of at a minimum the following information:
  - a. Project description, including what extraordinary measures will be taken to conserve or import water;
  - b. Term of the activity;
  - c. Estimate of the amount of water that will be conserved or imported;

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- d. Proposed methodology for verification of the amount of water conserved or imported; and
- e. Documentation regarding any state or federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of DSS.

A Contractor may modify its approved plan for creation of DSS during any Year, subject to approval by the Secretary.

2. There shall be a one-time deduction of five percent (5%) from the amount of DSS in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead.
3. DSS may only be created during a Year when the Secretary has determined a Shortage Condition.
4. DSS may only be created by a project that is approved by the Secretary for creation prior to the Secretary determining a Shortage Condition.
5. A Contractor must notify Reclamation by [insert Month Day] of the amount of DSS it wishes to create for the subsequent Year pursuant to an existing, approved plan. A Contractor may request mid-Year modification(s) to reduce the amount of DSS created during that Year, subject to the requirements of this Section 4.B. A Contractor cannot increase the amount of DSS it had previously scheduled to create during the Year.

C. Delivery of DSS

The Secretary shall deliver DSS in accordance with the following conditions:

1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding DSS.
2. The Secretary has determined a Shortage Condition.
3. Delivery of DSS shall not cause the total deliveries within the Lower Division states to reach or exceed 7.5 maf in any Year.
4. Delivery of DSS shall be in accordance with Article II(B)(3) of the Consolidated Decree.
5. If a Contractor has an overrun payback obligation, as described in the October 10, 2003 Inadvertent Overrun and Payback Policy or Exhibit C to the October 10, 2003 Colorado River Water Delivery Agreement, the Contractor must pay the overrun payback obligation in full before requesting or receiving delivery of DSS. The

Contractor's DSS Account shall be reduced by the amount of the overrun payback obligation in order to pay the overrun payback obligation.

6. If more DSS is delivered to a Contractor than is actually available for delivery to the Contractor in that Year, then the excess DSS delivered shall be treated as an inadvertent overrun until it is fully repaid.
7. A Contractor may request mid-Year modification(s) to increase or reduce the amount of DSS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this Section 4.C.
8. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of DSS shall be open to inspection by the Secretary or by any Contractor or Basin State.
9. DSS may only be delivered in the Year of its creation. Any DSS not delivered pursuant to this Section 4.C. in the Year it is created may not be converted to Extraordinary Conservation ICS.

#### D. Accounting for DSS

The Secretary shall develop procedures to account for and verify, on an annual basis, DSS creation and delivery. At a minimum such procedures shall include the following:

1. A Contractor shall submit for the Secretary's review and verification appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of DSS created and that the method of creation was consistent with the Contractor's approved DSS plan and a Delivery Agreement. Such information shall be submitted by [insert Month Date] of the Year following the creation of the DSS.
2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to this section, and provide a final written decision to the Contractor regarding the amount of DSS created. The results of such final written decisions shall be made available to the public through publication pursuant to Section 4.D.3. and other appropriate means. The Contractor may appeal the Regional Director's verification decision to the Secretary and through judicial processes.
3. Each Year the Decree Accounting Report will be supplemented to include DSS information for each Contractor and shall address DSS creation, deliveries, and deductions pursuant to Section 4.B.2 and 4.B.3.



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**Section 5. California’s Colorado River Water Use Plan Implementation Progress**

A. Introduction

[Adopted January 16, 2001; Deleted [insert Month Day, Year]]

B. California’s Quantification Settlement Agreement

[Adopted January 16, 2001; Deleted [insert Month Day, Year]]

C. California’s Colorado River Water Use Reductions

The California Agricultural (Palo Verde Irrigation District, Yuma Project Reservation Division, Imperial Irrigation District, and Coachella Valley Water District) usage plus 14,500 af of Present Perfected Right (PPR) use would need to be at or below the following amounts at the end of the Year indicated in Years other than Quantified or Flood Control Surplus (for Decree accounting purposes all reductions must be within 25,000 af of the amounts stated):

Benchmark Date (Calendar Year)	Benchmark Quantity (California Agricultural usage & 14,500 AF of PPR Use in MAF)
2003	3.75 <sup>4</sup>
2006	3.64 <sup>3</sup>
2009	3.60 <sup>5</sup>
2012	3.47

In the event that California has not reduced its use in accordance with the limits set forth above in any year in which the Benchmark Quantity applies, the surplus determination under Section 2.B.2. of these Guidelines will be suspended and will instead be based upon the 70R Strategy, for up to the remainder of the term of these Guidelines. If however, California meets the missed Benchmark Quantity before the next Benchmark Date or the 2012 Benchmark Quantity after 2012, the surplus determination under Section 2.B.2. shall be reinstated as the basis for the surplus determination under the AOP for the next following Year(s).

As part of the AOP process during the Interim Period of these Guidelines, California shall report to the Secretary on its progress in implementing its California Colorado River Water Use Plan.

<sup>4</sup> The Benchmark Quantities in 2003 and 2006 were met.

<sup>5</sup> The 2009 Benchmark Quantity is modified from 3.53 maf due to construction delays that have been experienced for the All-American Canal Lining Project.

**Section 6. Coordinated Operation of Lakes Powell and Mead During the Interim Period**

[Content of 2001 ISG Section 6., Authority, is now found at Section 9., as modified herein.]

During the Interim Period, the Secretary shall coordinate the operations of Lake Powell and Lake Mead according to the strategy set forth in this Section 6.

The objective of the operation of Lakes Powell and Mead as described herein is to avoid curtailment of uses in the Upper Basin, minimize shortages in the Lower Basin and not adversely affect the yield for development available in the Upper Basin.

The August 24-month study projections for the January 1 system storage and reservoir water surface elevations, for the following Water Year, shall be used to determine the applicability of the coordinated operation of Lakes Powell and Mead. Equalization or balancing of storage in Lakes Powell and Mead shall be achieved by the end of each Water Year.

<b>Powell Elevation (feet)</b>	<b>Powell Operation</b>	<b>Powell Live Storage (maf)</b>
<b>3700</b>	Equalize, avoid spills or 8.23 maf	<b>24.32</b>
<b>3636 - 3666</b> (see table below)	8.23 maf; if Mead < 1075 feet, balance contents with a min/max release of 7.0 and 9.0 maf	<b>15.54 - 19.29</b> (2008 - 2026)
<b>3575</b>	7.48 maf 8.23 maf if Mead < 1025 feet	<b>9.52</b>
<b>3525</b>	Balance contents with a min/max release of 7.0 and 9.5 maf	<b>5.93</b>
<b>3370</b>		<b>0</b>

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Lake Powell Equalization Elevation Table

In each of the following Water Years, the Lake Powell Equalization Elevation will be as follows:

Water Year	Elevation (feet)
2008	3636
2009	3639
2010	3642
2011	3643
2012	3645
2013	3646
2014	3648
2015	3649
2016	3651
2017	3652
2018	3654
2019	3655
2020	3657
2021	3659
2022	3660
2023	3662
2024	3663
2025	3664
2026	3666

1. Equalization: In Water Years when Lake Powell content is projected on January 1 to be at or above the elevation stated in the Lake Powell Equalization Elevation Table, an amount of water will be released from Lake Powell to Lake Mead at a rate greater than 8.23 maf per Water Year to the extent necessary to avoid spills, or equalize storage in the two reservoirs, or otherwise to release 8.23 maf from Lake Powell.
2. Upper Elevation Balancing: In Water Years when Lake Powell content is projected on January 1 to be below the elevation stated in the Lake Powell Equalization Elevation Table and at or above 3575 feet, the Secretary shall release 8.23 maf from Lake Powell if the projected elevation of Lake Mead is at or above 1075 feet. If the projected elevation of Lake Mead is below 1075 feet, the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release no more than 9.0 maf and no less than 7.0 maf from Lake Powell.
3. Mid-Elevation Releases: In Water Years when Lake Powell content is projected on January 1 to be below 3575 feet and at or above 3525 feet, the Secretary shall release

7.48 maf from Lake Powell if the projected elevation of Lake Mead is at or above 1025 feet. If the projected elevation of Lake Mead is below 1025 feet, the Secretary shall release 8.23 maf from Lake Powell.

4. Lower Elevation Balancing: In Water Years when Lake Powell content is projected on January 1 to be below 3525 feet, the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release no more than 9.5 maf and no less than 7.0 maf from Lake Powell.
5. When determining lake elevations and contents under this Section 6, no adjustment shall be made for ICS.

Coordinated Operation of Lakes Powell and Mead as described herein will be presumed to be consistent with the Section 602(a) storage requirement contained in the Colorado River Basin Project Act.

Releases from Lake Powell for coordinated operations will be consistent with the parameters of the Record of Decision for the Glen Canyon Dam Final Environmental Impact Statement and the Glen Canyon Dam Operating Criteria (62 *Federal Register* 9447, Mar. 3, 1997).

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**Section 7. Implementation of Guidelines**

[Content of 2001 ISG Section 7, Modeling and Data Authority, is now found at Section 7.A., as modified herein.]

A. AOP Process.

[text may be inserted]

B. Consultation

The Secretary shall consult on the implementation of these Guidelines in circumstances including but not limited to the following:

1. The Secretary shall first consult with all the Basin States before making any substantive modification to these Guidelines.
2. Upon a request for modification of these Guidelines, or upon a request to resolve any claim or controversy arising under these Guidelines or under the operations of Lakes Powell and Mead pursuant to these Guidelines or any other applicable provision of federal law, regulation, criteria, policy, rule, or guideline, or the Mexican Water Treaty of 1944, the Secretary shall invite the Governors of all the Basin States, or their designated representatives, to consult with the Secretary in an attempt to resolve such claim or controversy by mutual agreement.
3. In the event projections included in any monthly 24-Month Study indicates Lake Mead elevations may approach an elevation that would trigger shortages in deliveries of water from Lake Mead in the United States, the Secretary shall consult with the Basin States on whether and how the United States may reduce the quantity of water allotted to Mexico.<sup>6</sup>
4. Whenever Lake Mead is below elevation 1025 feet, the Secretary shall consult with the Basin States annually to consider whether Colorado River hydrologic conditions, together with the anticipated delivery of water to the Lower Division states and Mexico, is likely to cause the elevation of Lake Mead to fall below 1000 feet. Upon such a consideration, the Secretary shall consult with the Basin States to discuss further measures that may be undertaken. The Secretary shall implement any additional measures consistent with applicable federal law.

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<sup>6</sup> These Guidelines are not intended to constitute an interpretation or application of the 1944 Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Treaty with Mexico through the IBWC in consultation with the Department of State.

5. During the Interim Period the Secretary shall consult with the Basin States regarding the administration of ICS.
6. During the Interim Period the Secretary shall consult with the Basin States regarding the creation of ICS through other extraordinary conservation measures pursuant to Section 3.A.1.h.
7. During the Interim Period the Secretary shall consult with the Basin States regarding the creation of System Efficiency ICS pursuant to Section 3.A.3.
8. The Secretary shall consult with the Basin States to evaluate actions at critical elevations that may avoid shortage determinations as reservoir elevations approach critical thresholds.

**C. Mid-Year Review**

[text may be inserted]

**D. Operations During Interim Period**

[text may be inserted]

Beginning no later than December 31, 2020, the Secretary shall initiate a formal review for purposes of evaluating the effectiveness of these Guidelines. The Secretary shall consult with the Basin States in initiating this review.

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**Section 8. Interim Period and Termination**

[Adopted January 16, 2001; Deleted and Modified [insert Month Day, Year]]

A. Interim Period

These Guidelines will be effective upon the date of execution of the ROD for Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations of Lake Powell and Lake Mead and will, unless subsequently modified, remain in effect through December 31, 2025 (through preparation of the 2026 AOP).

B. Effective Period - Special Provisions

1. The provisions for the delivery and accounting of ICS in Section 3 shall remain in effect through December 31, 2036, unless subsequently modified, for any ICS remaining in an ICS Account on December 31, 2026.
2. The provisions for the creation and delivery of Tributary Conservation ICS and Imported ICS in Section 3 shall continue in full force and effect until fifty years from the date of the execution of the ROD.
3. The provisions for the creation and delivery of DSS in Section 4 shall continue in full force and effect until fifty years from the date of the execution of the ROD.

C. Termination of Guidelines

Except as provided in Section 8.B., these Guidelines shall terminate on December 31, 2025 (through preparation of the 2026 AOP). At the conclusion of the effective period of these Guidelines, the operating criteria for Lake Powell and Lake Mead are assumed to revert to the operating criteria used to model baseline conditions in the Final Environmental Impact Statement for the Interim Surplus Guidelines dated December 2000 (i.e., modeling assumptions are based upon a 70R Strategy for the period commencing January 1, 2026 (for preparation of the 2027 AOP)).

[text may be inserted]

**Section 9. Authority and Disclaimer**

These Guidelines are issued pursuant to the authority vested in the Secretary by federal law, including the Boulder Canyon Project Act of 1928 (28 Stat. 1057), the Colorado River Storage Project Act (70 Stat. 105), and the Consolidated Decree issued by the U.S. Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006) and shall be used to implement Articles II and III of the Criteria for the Coordinated Long Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. No. 90-537), as amended.

[text may be inserted]