

COLORADO RIVER WATER USERS ASSOCIATION

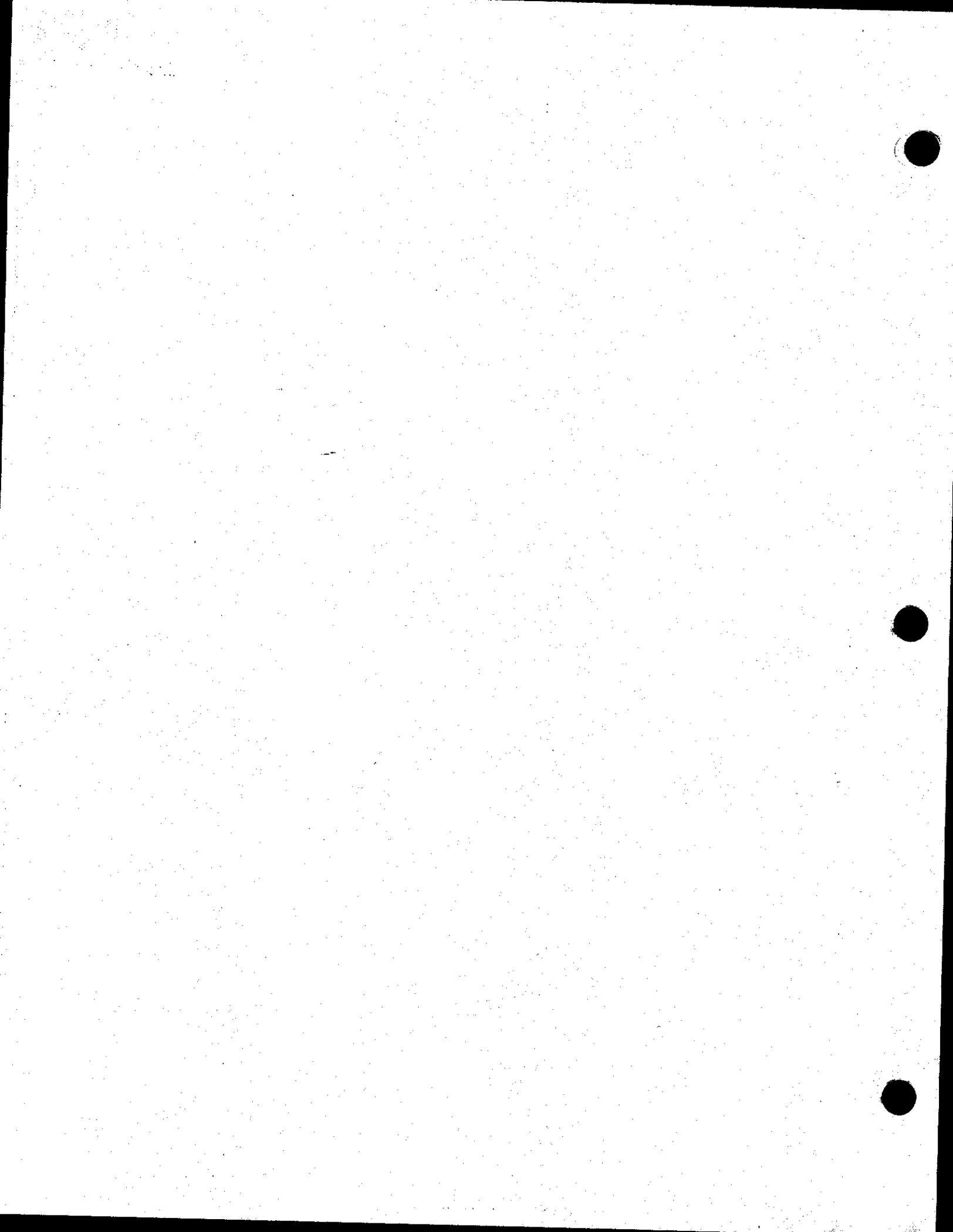
1996 Annual Conference
Colorado River - Gateway To the 21st Century
CAESARS PALACE
LAS VEGAS

Address
by
Bruce Babbitt
Secretary of the Interior
10:00 a.m., December 19, 1996

Almost exactly one year ago, on the occasion of your 50th annual convention, I came before you here in Las Vegas to review the status of water administration in the Lower Basin and to make some observations about future directions. I then expressed the hope that a consensus on water management could be forged among the basin states, and that a mediation process then in place could help to move contending interests closer to a resolution of their differences, as steps toward sound long-term management in the Lower Colorado River.

At that time I described in some detail the contentious history of the River, a story that is guaranteed to temper the optimism of even the most hopeful souls. Today I have to report that while I am disappointed that more progress has not been made, I cannot say I am astonished. The Colorado River continues to test the commitment and the endurance of everyone who has been participating in the efforts of the last twelve months. It also has a nearly limitless capacity to generate new controversy. Before turning to the contentious matters that face us, however, I want to emphasize some good Colorado River news of 1996.

In April we completed our first spike flow release from Glen Canyon Dam, creating an artificial flood in the Grand Canyon to reestablish beaches and improve the natural habitat in the floor of the Canyon. The release has helped us to manage and improve the ecosystem of the Canyon in ways that exceeded our expectations. We appreciate the cooperation we have received



from the Basin States, the Tribes, and power users in implementing this unique water management program.

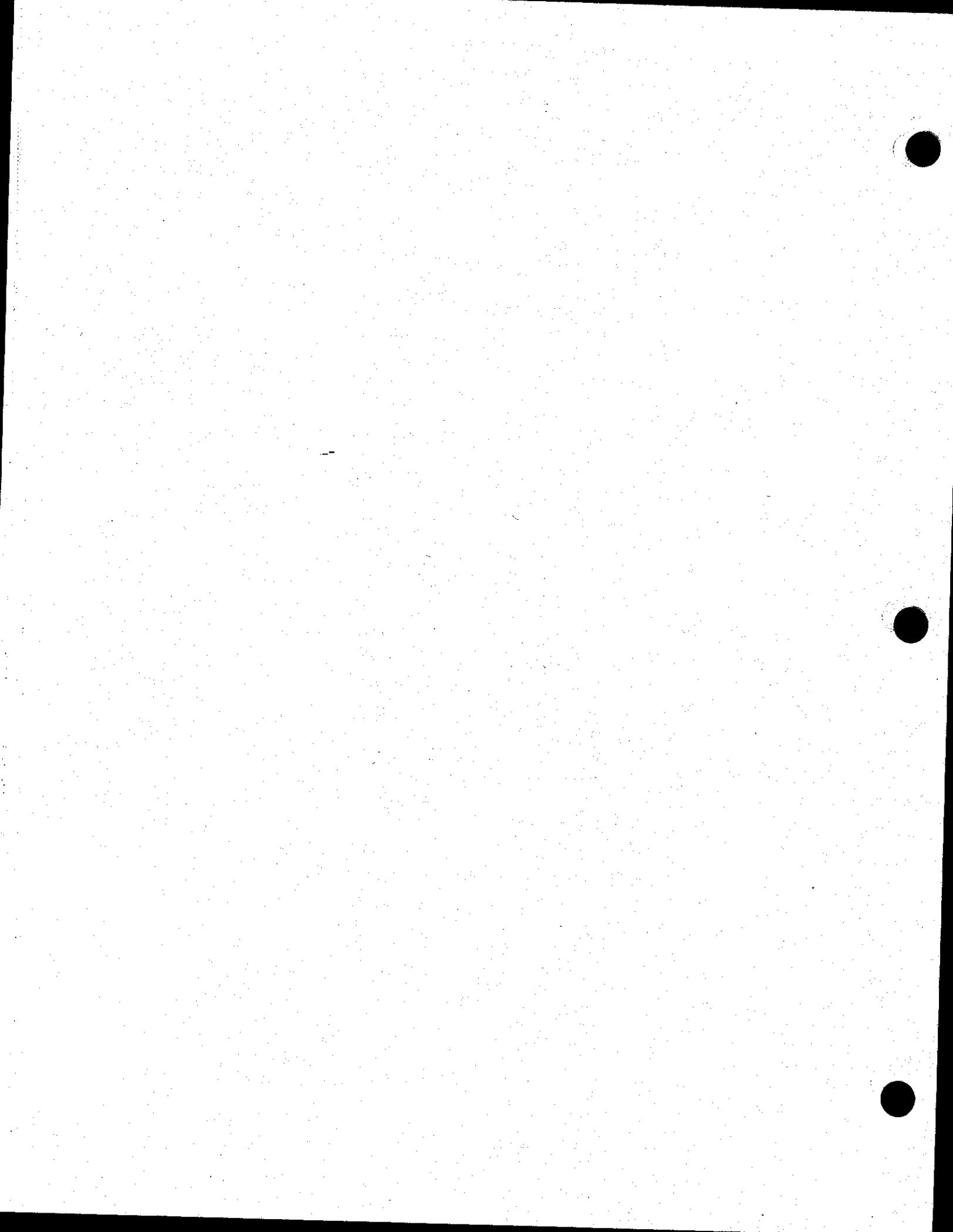
On October 9th of this year, I signed the record of decision completing the Glen Canyon Dam EIS that was begun in 1989. That decision initiated the adaptive management process for future operation of Glen Canyon Dam. This process enables us to operate the dam so as to balance the needs of recreation, the environment, cultural resources, water delivery, and hydropower generation.

We have entered into a partnership and funding agreement with the Lower Basin States and other interested parties to develop a multi-species management plan for the Lower Basin. Formal interim § 7 consultation between the Bureau of Reclamation and the Fish and Wildlife Service on river operations is ongoing and should be concluded in the Spring of 1997. Our plan is that a long term multi-species management plan will supersede the interim consultation, and will simultaneously provide both for protection of threatened and endangered species in the Lower Basin and for continued delivery of water and power benefits from the river.

I also want to commend the efforts of Governor Romer and Lt. Governor Shoettler of Colorado, who have convened a process for the purpose of seeking a resolution of the protracted controversy over the Animas-La Plata project. They have done so at considerable political risk, and the issues are divisive and emotional. I have given the process my full support. It is moving along satisfactorily so far, and it may provide a helpful model for negotiated settlement of knotty problems within the Colorado River Basin.

On the other side of the ledger, in California serious unresolved controversies remain both between agricultural agencies, and among the urban water suppliers. No progress is being made toward a settlement of the San Luis Rey water claims as directed by Congress. The mediation process that was taking place has ground to a halt.

It is a matter of special sensitivity that the concerns of other Basin states with the long term future of California's demands on the Colorado River have not been addressed. To be sure, this is only the most recent version of an issue that has been



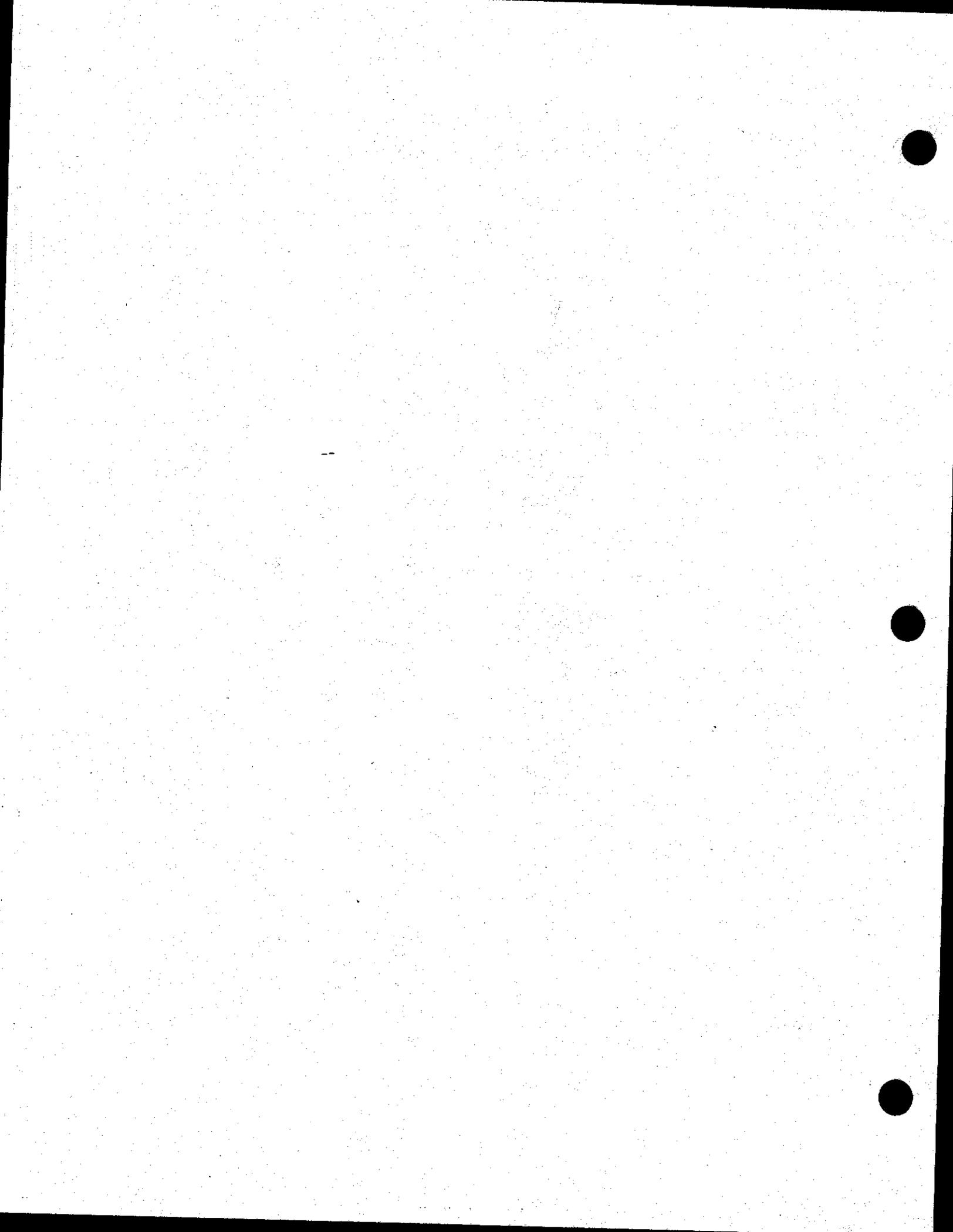
central to Colorado River controversy for seven decades. When California was pressing for the construction of Boulder Dam in the 1920's, other Basin states were concerned that its rapid development would gain it the lion's share of the river under prior appropriation principles, to their disadvantage. This fear prompted the development of the Colorado River Compact in 1922, and the provision in the 1928 Boulder Canyon Project Act requiring California to enact a law limiting its Colorado River contractors to normal year use of 4.4 million acre-feet (maf).

California's uses are expected to go above 5.2 maf this year, exceeding by some 800,000 acre-feet its basic entitlement of 4.4 maf. In contrast to the past, however, the unused Lower Basin apportionment upon which California has relied is shrinking. For the first time ever, this year, demand for water in the Lower Basin exceeded the Basin's basic apportionment of 7.5 maf. Demand is expected to exceed 8 million acre-feet this coming year. Consumption in each of the three lower division states has been growing, and we can anticipate that with present patterns of use, demand will continue regularly to exceed 7.5 maf.

Fortunately, in the last few years water has been abundant. We have approximately 50 maf in storage on the Colorado River system, some 83% of system capacity. Analysis shows a very low risk of future shortage. For these reasons, we declared a surplus condition that allowed all Lower Basin water demand to be met in calendar year 1996. We anticipate a similar decision for 1997. However, conditions of abundance will not always prevail, and users in the Lower Basin cannot depend on surpluses always being available.

The six Basin states other than California have proposed discussions to develop multiple year surplus and shortage criteria that will for an interim period meet at least part of the demand in the Lower Basin. This is a significant proposal, but it is based on California's ability to commit to an enforceable program to reduce its reliance on surplus water, without creating undue risk to other entitlement holders.

A crucial question is how California is preparing itself for times of greater stringency. Its uses in excess of 4.4 maf are occurring both in the agricultural and in the urban sectors. The agricultural agencies have an entitlement of 3.85 maf, but called for more than 4 maf this year. There is



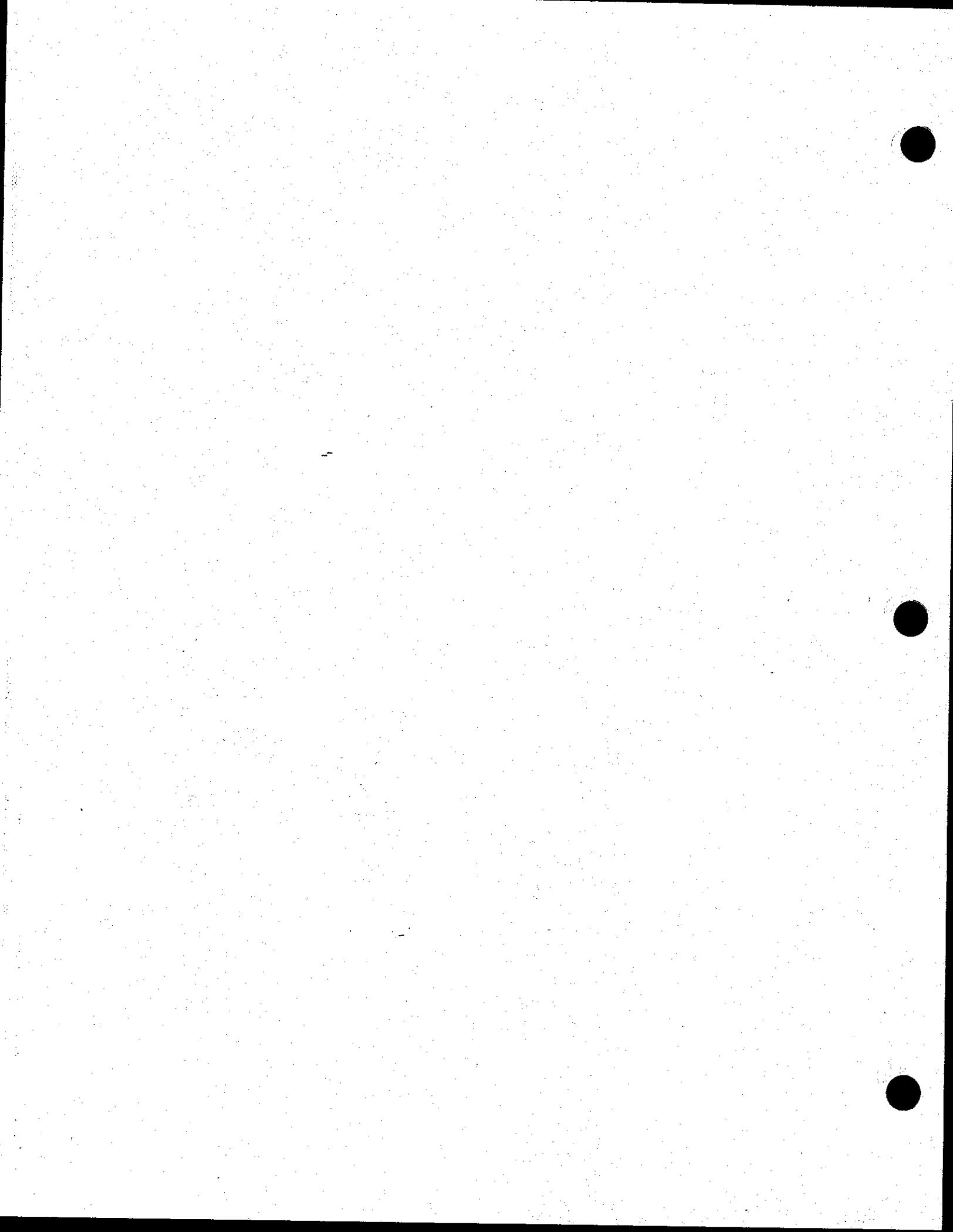
increased use in both the Palo Verde and Imperial Irrigation Districts. The Metropolitan Water District has been using about 1.2 maf of Colorado River water.

Where is California going? Apparently, considerable reliance is being put on the prospect of intrastate water marketing, in particular on transfers of Colorado River water from agricultural to urban use. Presumably, much of that water would come from agricultural efficiency gains based on water saved through conservation technologies, funded by urban interests. That was the approach taken in a 1989 MWD/IID conservation plan designed to generate about 100,000 acre-feet per year. Other techniques that have been explored are dry-year options, a means for meeting short term deficits in supply through voluntary agreements by farmers to forego use of river water during periods of shortage; and land fallowing, a more controversial approach because of its potential impact on agricultural communities. During the last year, IID and San Diego initiated an ambitious effort aimed at transferring large quantities of water--several hundred thousand acre-feet per year--from the Imperial Valley to the city.

Water Transfers Through Marketing

As I emphasized last year, ~~I believe that water marketing is an important tool that can help us to use the water in the Colorado River more effectively, and in particular that it can be important in meeting California's long term need to bring its demand in line with available supply.~~ However, some serious obstacles stand in the way of implementing market-based transfers. I believe I can now usefully take several steps to help effectuate such transfers, consistent with the Law of the River and the fundamental precept that our goal is management of the River to make the most effective use of the limited resource we have. I am initiating the following actions regarding marketing:

1. ~~First, transfers must be founded on a baseline quantum of beneficially-used water from which savings can be made.~~ I know that some basin interests have expressed concern about increased water use by the Imperial Irrigation District attributable to various factors, including changing cropping patterns. We have some real concern about this as well. The Bureau of Reclamation has been working on a cooperative arrangement with the Imperial Irrigation District to determine the amount of water IID is beneficially using. This is a desirable step, and I have instructed the Bureau to seek to implement it as expeditiously as possible. Such



COLORADO RIVER WATER USERS ASSOCIATION

1997 Annual Conference
Caesars Palace
Las Vegas, Nevada

Address
by
Bruce Babbitt
Secretary of the Interior
9:30 a.m., December 18, 1997

During each of the past two years I have come before you at your annual conference to review the status of water administration in the Lower Basin and to identify some of the steps that I believe are necessary to achieve sound long-term management of the Colorado River. ~~On each occasion I have emphasized the desirability of consensus among the basin states, and initiatives within the states, and particularly within California to develop a realistic strategy to assure that the needs of each state can be met without jeopardizing the entitlement of others.~~ I have, in each instance, pledged my cooperation and assistance in these efforts, while stating my readiness to act as necessary to fulfill my responsibilities pursuant to the Law of the River.

I am pleased to be able to report positive action on several fronts. We have taken a major step toward bringing to fruition the interstate transfer by state-authorized entities pursuant to off-stream banking programs in the Lower Basin, as I shall describe in a moment. California has been moving forward in its effort to produce a workable plan that will permit it to live within its Colorado River apportionment. Though much remains to be done, there is measurable progress. The time is now ripe for me to take some initiatives designed to help move the California process along the path on which it has embarked. I shall describe those initiatives shortly, but first I would like to report on some other important Colorado River developments.

It is paradoxical that our current efforts to come to terms with the challenges of scarcity on the River occur during one of the wettest periods in recent history. The 1997 water runoff was 144% of normal, and this autumn has been unusually wet. The flows into Lake Powell during the past few months have run nearly two times normal, and the Colorado River reservoir system is at its highest level since 1986. As a result releases from Flaming Gorge, Aspinall and Glen Canyon reservoirs have been much above normal this fall, and flood control releases at non-damaging levels from Hoover Dam are projected early in 1998.

El Niño is very much on everyone's mind, and we are engaged in detailed and ongoing efforts to assure that we schedule releases effectively in order to reach proper Reservoir elevations. In that way we can better prepare for the possibility of increased runoff from a heavy late Spring rain or snow. Channel work is nearing completion in the Yuma area and in Mexico to prepare for higher than normal flows, and emergency action plans and table-top exercises have been completed for Hoover, Davis and Parker Dams. We are working diligently to handle anticipated high flows of water safely and effectively.

In light of the high level of system storage, I signed the 1998 Annual Operating Plan for the Colorado River Reservoirs, declaring a surplus which allows Colorado River water in excess of 7.5 million acre-feet to be used in the Lower Basin. A surplus for Mexico has also been determined and the International Boundary and Water Commission has informed Mexico that they may schedule an additional 200,000 acre-feet of use, pursuant to our Treaty. Depletions in the Lower Basin are expected to be about 8.2 million acre-feet in 1998, which presents no problem during a year like this one, but underlines why we are concerned that preparations be made for less abundant periods that are unavoidably before us.

Last year I noted that I had initiated an adaptive management process for future operation of Glen Canyon Dam to enable us to operate the dam so as to balance a variety of interests. We were able to show the benefits of that process recently when heavy rains in the Paria River basin deposited large quantities of sediment in the main channel of the Colorado River. A decision was made to run a test flow at full powerplant capacity to redeposit the sediment, and we did so successfully in early November. These are precisely the sort of innovative steps that adaptive management permits and encourages.

We are working together with the States, Tribes, environmental organizations and other interested stakeholders on the Lower Colorado River Multi-Species Conservation Program. The program plan is to provide protection for both currently listed threatened and endangered species and potentially listed species, along the Lower Colorado River. The plan is designed to address both the needs of the States for water and power production, and the consultation needs of the Bureau of Reclamation for River operations and maintenance.

This proposed program underscores our commitment to the restoration of threatened and endangered species, while addressing the water and power needs of the basin states. It is a cooperative endeavor that holds significant promise, and I applaud the Basin States for their commitment to work with us. It is also noteworthy as another demonstration of the workability of the basic requirements of the existing Endangered Species Act, when administered with sensitivity and imagination.

We are also turning our attention to the environmental challenges faced by the Salton Sea. I will be visiting the Salton Sea later this afternoon and tomorrow, and I am hopeful that we will soon be addressing its problems in cooperation with other interested parties.

I am pleased to be able to report positive developments in each of these areas. We are also progressing on that most stubbornly recalcitrant set of issues, water supply management in the Lower Basin. I would now like to turn to that subject.

OFFSTREAM STORAGE REGULATION

In my address last December, I said "I am instructing the Bureau of Reclamation to initiate a rulemaking process to develop water management regulations for the Lower Basin." I am pleased to announce that this process is now well underway. By the end of this month, the Bureau of Reclamation will publish in the Federal Register a proposed rule titled "Offstream Storage of Colorado River Water and Interstate Redemption or Transfer of Storage Credits in the Lower Division States". The proposed rule permits the States of Arizona, Nevada, and California to store Colorado River Water offstream for interstate use within the Lower Division States. It creates a procedural framework through which state authorized entities within the Lower Division can develop storage credits associated with Colorado River water that is stored offstream, and then use or transfer these credits within the Lower Division. The preamble to this Rule will note the importance of providing an opportunity for Indian tribes to participate in such storage and transfer activities. We will be receiving comments on the proposed rule during the 60 days following its publication.

While the opportunities created by this rule will be available to each of the Lower Division states, the rule should be of particular assistance to Arizona, which has enacted an offstream banking program, and should prove especially helpful to Nevada as it prepares to meet its needs during the early years of the next century.

When this rule becomes final, we will have in place one significant element of the program that is needed to facilitate water transfers in the Lower Basin. It is, however, only one piece of the puzzle, and much remains to be done, particularly to meet California's long term requirement to bring its demand in line with available supply.

BENEFICIAL USE AND TRANSFERS IN CALIFORNIA

~~As I have emphasized on several occasions, market-based transfers within California must be founded on a baseline quantum of beneficially used water from which savings can be made. Thus far, efforts among the California agricultural agencies to achieve an agreed-upon quantification of entitlements from the Colorado River, and to settle long-standing differences about beneficial use, particularly within~~

the Imperial Irrigation District, have been unsuccessful.

I want to reiterate the concern I expressed last year about California uses in excess of 4.4 million-acre feet. There is increased use in both the Palo Verde and Imperial Irrigation Districts. Though the agricultural entitlement under the first three priorities is only 3.85 million acre-feet per year, the agricultural districts have been using about 4 million acre-feet during each of the past several years. Indeed, except for the unusual years of 1992 and 1993, Imperial's diversions of Colorado River water have been steadily increasing over the past ten years. IID's diversions during the past two years have exceeded its long term average use by about 200,000 acre-feet per year, and that is in addition to some 106,000 acre-feet it is obliged to conserve under a transfer agreement with the Met.

This is a disturbing trend, and it is in tension with California's need to bring its use within its entitlement. I am aware of no convincing reason why the agricultural districts should be exceeding their 3.85 million acre-foot allotment. This year, for the first time, the Bureau of Reclamation declined to approve the initial IID diversion requested. In light of these developments, I am instructing the Bureau of Reclamation to scrutinize very carefully requests for deliveries in excess of long term averages by districts that are likely to result in total deliveries to the holders of the first three priorities that exceeds the 3.85 million acre-foot entitlement, and to report to me the implications of such requests for compliance with the statutory beneficial use limitation.

As steps are taken looking to agricultural transfers of Colorado River water pursuant to the emerging California Plan, it becomes increasingly important that both beneficial use and quantification issues within the agricultural sector be resolved. So long as districts do not have fixed rights within the priorities of the seven party agreement, it becomes difficult if not impossible to ensure that water transfers do not end up increasing demand on the Colorado River. Moreover, if the only water transferred is water that otherwise would be wasted or not beneficially used, no net benefit to the River would result. For these reasons, transfers must be founded on a baseline quantum of beneficially-used water from which savings can be made.

I have repeatedly encouraged efforts by the agricultural districts to achieve a negotiated quantification, and I want emphatically to reiterate that message today. Alternatively, should a negotiated settlement not be achieved prior to the time that a district seeks required Secretarial approval for a transfer, I shall determine, as a precondition to approval, the maximum quantum of water out of which a transfer can be made.

I am aware that a draft agreement for transfer of conserved water between the Imperial Irrigation District and the San Diego County Water Authority was made public last week. Such agreements are a positive and important step in moving the emerging

California Plan toward implementation. Of course we have not yet studied the draft and I cannot comment on any of its specific provisions. I do want to emphasize, however, that the policy on transfer approvals that I have just described will be applied to agreements such as that proposed between IID and the San Diego County Water Authority.

SURPLUS CRITERIA

I said last year that I would direct the Bureau of Reclamation to continue to operate under current guidelines for annual decisions regarding surplus determinations in order to give California an opportunity to put in place a realistic strategy to assure that it will be able to reduce its use when necessary. We are not there yet. The draft California "4.4 Plan" that was issued in October of this year is, however, a necessary and desirable step. The Plan properly recognizes the need for programs that will allow California to meet its Colorado River water needs from within its annual apportionment of Colorado River water of 4.4 million acre-feet when neither surplus water nor apportioned but unused water is available.

While the Plan is literally a blank in some crucial specifics--it neither specifies a date by which California's uses of Colorado River water will be reduced, nor does it state the amount of reduction to be achieved by that unspecified date--it does identify the internal sources from which about one-half of the present excess demand is expected to be met: 106,000 acre-feet/year from the existing IID/MWD conservation agreement; 200,000 acre-feet/year from a proposed IID/San Diego (SDCWA) transfer; and some 93,000 acre-feet/year through seepage recovery from the All-American and Coachella Canals. These are promising sources (though they present some as-yet unanswered questions), and they appear to provide the base for a realistic, and implementable, California Plan. I was also particularly pleased to see a provision for resolution of the San Luis Rey Indian Water Rights Settlement, which I consider an essential element of any strategy, as a component of the Plan.

However, a number of very important problems remain to be resolved, not the least among them a resolution of beneficial use and quantification issues within the agricultural districts so that transfers can go forward, and arrangements for transportation of transferred water through the Met's and San Diego's aqueduct (wheeling).

As I understand it, this proposal to reduce demand by about 400,000 acre-feet/year comprises the first of two phases of the evolving California Plan. I noted last year that I would defer the development of guidelines implementing surplus criteria in order to give California an opportunity to put into place a realistic strategy for meeting its needs. Phase I of the draft California Plan outlines the elements of such a strategy. When further steps are taken so that firm commitments are in place for implementation of this phase of the Plan, including the execution of binding contracts,

agreed-on arrangements for transportation, and resolution of quantification and beneficial use issues, I will adopt surplus criteria that will permit California to continue to meet its beneficial use needs from the Colorado River. I anticipate that these criteria will be effective for a specified number of years, at which time they will expire of their own terms, and will be reviewed before they are renewed, in order to ensure that California continues to make reasonable forward progress in implementation of its strategic plan.

CONCLUSION

The rate of change in matters affecting the Colorado River can sometimes be frustratingly slow, but I believe important progress is being made. I acknowledge the efforts made by California to shape a strategy for living within its entitlement which is helping to set us in the right direction, and I appreciate the constructive engagement of the other Basin States in that effort. We are setting a precedent of fruitful federal-state cooperation on the Colorado River. As my comments today should make clear, I also believe the time has come for me as River Master to play a more active role.

Much remains to be done, and I know that it cannot all be done in the next year or two. There are additional opportunities for marketing across state lines, and unfinished business relating to Tribal water rights. I reiterate my commitment to working within the Law of the River, to an insistence on prudent, non-wasteful use, and on the benefits of imaginative uses of marketing to implement voluntary, willing-buyer, willing-seller transactions. If we keep at it, we will be able to assure that every need will be addressed and that no entitlement holder, or state, will be disadvantaged.

-end-

Secretary's Remarks to
Colorado River Water Users Association
Las Vegas, December 17, 1998

Today marks the fourth year that I have joined you at this annual meeting to review our progress on managing the Colorado River. As in past years, I am pleased to report considerable progress toward our common goal of more efficient use of our shared water resource. Indeed it has been a remarkable year, perhaps the most significant on the River in many decades, for we are now on the threshold of resolving some of the most intractable and elusive issues that bring us to these meetings.

Each year I have stressed two overarching themes that should always inform our efforts: 1) The desirability of resolving water controversies through stakeholder consensus; and 2) the importance of conservation and consensual water transfers and similar transactions. And we have made progress in these areas as well.

Last year, I discussed steps necessary to bring California into line with its entitlement under the Colorado River compact. At the same time, California issued its draft "4.4 Plan", which set the stage for a series of developments designed to implement that plan. And in the last year California has made impressive progress toward the 4.4 goal, which I would now like to review in some detail.

In April of this year, the San Diego County Water Authority and the Imperial Irrigation District executed a water conservation and transfer agreement that provides the means for an ag-to-urban transfer of increasing amounts of water, rising to potentially as much as 300,000 acre-feet per annum. While that arrangement is subject to a variety of state and federal requirements, the essential transaction between San Diego and the IID is one important building-block of the 4.4 Plan. This is in addition to the 1988 MWD/IID agreement, under which the Met is entitled to up to 106,000 acre-feet per year of conserved ag water pursuant to a contract whose conservation measures I understand to have been fully implemented within the last year.

A second important element of the Plan was advanced when San Diego and the Metropolitan Water District reached an agreement that will permit the transferred water to be delivered to San Diego via an exchange agreement.

The 4.4 Plan took yet another step forward when the State of California appropriated \$235 million to underwrite the lining of the All-American and Coachella Canals, and to implement groundwater conjunctive use programs, which will provide close to 100,000 acre-feet per year of conserved water, out of which both the San Luis Rey settlement can be implemented, and additional water will be provided to the Met. Met has opened discussions with the San Luis Rey

settlement parties to explore potential arrangement for delivering and/or exchanging 16,000 af of conserved canal lining water for the San Luis Rey tribes; as trustee for Indian tribes I attach great importance to completing this settlement.

When each of these elements is in place, Phase 1 of the California Plan will be ready for implementation, and California will be half-way to its 4.4 maf goal. I recognize the very considerable expenditure, both in human and economic terms, that the State of California has invested in moving the Plan forward, and I want to take this occasion to express my appreciation to California—with special thanks to the retiring Water Resource Department Director Dave Kennedy—for that effort.

As I emphasized in my presentation last year, however, the proposed IID/San Diego transfer and other ag-to-urban transfers of water in California cannot go forward unless and until the relative water rights of the Imperial Irrigation District and the Coachella Valley Water District are quantified, so that transfers can take place from a clear and settled baseline. I don't think anyone would contradict me if I characterized the traditional relationship between Coachella and Imperial as contentious. During the past several months, we, with the cooperation of the State, have engaged the two agencies in intensive negotiations designed to bring about a mutually agreeable quantification, that would convert the legacy of the 7-Party Agreement into clear, quantified water rights for each District.

I am very pleased to be able to announce that those negotiations bore fruit yesterday, when the negotiating teams for Imperial, Coachella, and the Department executed a Memorandum of Understanding that adopts a fundamentally new approach to quantifying the Districts' water rights, and which sets the stage for transfers to occur, and for an ag-to-urban water market to develop. The MOU establishes a conceptual agreement among the parties, and it anticipates that additional details and refinements will be worked out during a six-month "finalization" period. While the MOU reorders the relationships between Imperial and Coachella—the primary roadblock to transfers—I also am pleased to report that the Met has committed itself to engage actively in negotiations relating to unresolved issues during the six-month IID/Coachella MOU "finalization" period. As Winston Churchill might have said, "This is not the end. It is not even the beginning of the end. But it may well be the end of the beginning." Considering the intensity that marks the Colorado River water wars, I would classify the progress to date as a minor miracle. We shall keep the pressure on.

While the full terms of the quantification are still subject to finalization and are in some respects highly detailed, in basic outline it is essentially as follows.

- IID and Coachella will quantify between themselves their share of the third priority under California's 7-Party Agreement. The first two priorities, the Palo Verde Irrigation District and the Yuma Project, will remain unchanged.
- If the first two priorities take more water than anticipated, causing the total agricultural

entitlement to exceed its 3.85 maf limit, IID and Coachella will absorb the shortage on a 90/10 basis.

- IID's entitlement will be capped at 3.1 maf, and will include water to be transferred to Met, Coachella and San Diego, ultimately leaving a net diversion entitlement to the IID of approximately 2.7 maf.

- Coachella's entitlement will be capped at 468,000 acre-feet, composed of its historical use of 330,000 acre-feet plus water to be transferred and conserved under the plan.

- Other elements of the negotiation are a "peace" agreement between the two agencies not to challenge each other's water practices, and an expectation that the Met will build a conjunctive use facility in the Coachella Valley.

- The districts will also agree to support the implementation of surplus guidelines designed to provide reasonable assurance that Met's aqueduct is kept full through 2015.

I am very impressed that Imperial and Coachella have at last discovered their fraternal bonds and negotiated such an impressive quantification approach. I personally want to extend my thanks to the negotiating teams for the two Districts and to the heads of the respective District boards who have participated in all the intensive discussions that led up to the MOU-Tellis Codekas of Coachella and Lloyd Allen of Imperial. These folks have stepped up to the plate and delivered, and I commend them for their accomplishment and the onset of a new era of goodwill and mutual cooperation.

A next important step involves the Met, holder of the next California priority under the 7-Party Agreement. Before signing on, Met is waiting for the final piece of the California Plan puzzle to fall into place. Its concerns about river operations are entirely appropriate and timely. And that brings me to the matter of surplus guidelines. The draft California 4.4 Plan anticipated a first phase, under which California's need for Colorado River water would be reduced to 4.8 maf by 2015. During that time period, California has anticipated that the State would continue to be reliant on some available surplus in order to keep its aqueduct full. It is now time to move forward with this concept. I am prepared, as these other elements of the California Plan proceed toward finalization and implementation, to put into effect surplus guidelines that address Met's need to maintain a full aqueduct during this period, subject to the following provision: as a condition for continued implementation of the surplus guidelines, California must meet a series of benchmarks we will identify, to be monitored by the Bureau of Reclamation, designed to prevent backsliding and assure that Phase I is being regularly implemented on a schedule that will step-by-step reduce California's call on the Colorado River to 4.8 maf or less by 2015.

As to the substance of the surplus guidelines, I am aware of the proposal prepared by six of the seven basin states dated December 4th. On this issue, as on others, I reiterate my preference that all the basin states search for a recommendation on which they can agree. In light of California's

needs, and the restrictions relating to surplus in Article II(B)2 of the Supreme Court decree in *Arizona v. California*, it would be particularly helpful for California to engage with the other basin states in an effort to find common ground. The time is now right for California and the other states to work together to negotiate surplus guidelines that will adequately recognize the achievement implicit in the steps California is taking in reducing its reliance on the Colorado River by providing assurances that Met's aqueduct can remain full during the intensive period of conservation that lies ahead. I have asked Reclamation to develop proposed guidelines using an open public process within the next six month period coinciding with the six month "finalization" period established for the IID/Coachella MOU. If the states are unable to agree within that time frame, I shall exercise my responsibility and issue surplus guidelines, giving due regard to the views expressed by the various basin states.

Next, I would like to report to you on the status of the proposed rule for off stream storage of Colorado River water and interstate transfers in the lower division states. As you know, the genesis of this rule was the enactment of an Arizona law providing for the possibility to store otherwise unused water in Arizona pursuant to interstate storage agreements, so that such water could subsequently be used to generate intentionally created unused Arizona apportionment that could be made available to entities in other states that had entered into interstate storage agreements. The Arizona law provided that it would become effective only upon the promulgation of a state-certified federal rule authorizing such transactions. I have viewed this plan as a highly desirable means to meet some of Nevada's incipient need for additional Colorado River water, and I instructed the Bureau to move forward with development of such a rule as promptly as possible.

A proposed rule was published in the Federal Register on December 31st of last year, and I anticipated issuing a final rule sometime toward the end of last Summer. As is the case with virtually everything relating to the Colorado River, certain elements of this proposed rule generated extensive commentary, and in order to assure that all views were adequately heard and considered, I re-opened the comment period until October 21st of this year. At the present time only one issue remains unresolved, a matter relating to the contracting requirements under the Boulder Canyon Project Act. We are continuing to work toward a resolution of that matter. I am hopeful that a mutually agreeable solution will be found, and that the final rule can soon be issued. In that regard, however, I want to emphasize the very great importance I attach to finding a means to meet Nevada's legitimate needs, and to make clear that if we cannot find a resolution of the problem surrounding the off stream storage rule, I shall be looking at other possibilities for meeting those needs.

I need to say a final word about a related topic: the Salton Sea. In October, Congress passed the Salton Sea Reclamation Act of 1998. For the most part, the Act codifies actions the Administration already has underway to address the environmental problems in the Salton Sea, including the initiation of a formal analysis of remedial alternatives under the National Environmental Policy Act. Section 101(b)(3) states: "In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water

conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet per year."

As I have emphasized today, we are working closely with California entities on many fronts to make ag-to-urban transfers a reality. But I will simply point out the obvious -- that identifying a workable, realistic and affordable way to manage the Salton Sea will be a very complex task.

All in all, though we are not at the end of the road, we have come a long way, and we have done so on the basis of negotiation designed to achieve consensus. I continue to be committed to the idea that consensus is the best way to administer this river. But to find common ground requires a willingness to accommodate. I believe we can find such ground on each of the remaining issues that I have discussed, so that every state and every entitlement holder can win, but with no winner-take-all. I prefer to be the facilitator of success and not the river-master issuing dictates from afar. I hope that, in the remaining time on my watch, we can continue and accelerate our work in the spirit of friendship and cooperation that has already produced so much progress.



Colorado River Water Users Association Speech
Las Vegas, Nevada
Friday, December 17, 1999

Each year since 1995, I have joined you at this conference to review the year's work and to discuss our future on this River of Contention known as the Colorado River. Now, on the threshold of the millennium, I would like to reflect briefly on where we have been and then to discuss our future course. Crossing into the next century, we are gradually transforming our River of Contention into what I would prefer to think of as a river of Blissful Cooperation.

In the century past, the seven basin States have contended for the waters of the Colorado as a zero-sum process, in which one state gained only at the expense of the others. The preferred method of settling differences was litigation, intermixed with congressional battles, often linked to funding the construction of large-scale delivery systems.

Now, at century's end, these conflicts and the resort to lawsuits as the preferred approach are receding (although never completely), and we are awakening to the possibilities of managing our river system through cooperation and consensus. We are moving toward a water economy in which all parties can gain, in effect transforming "zero sum" into cooperative solutions where the whole is much more than the sum of individual entitlements.

Over the past decade we have together invented many new forms of cooperative water management - markets, transfers, banking, re-use, efficiency, new technologies, and pricing structures, to name a few. And in the process we are addressing environmental issues. River protection and restoration, once considered an unaffordable luxury in the water-starved Southwest, is now a widely accepted aspect of good water management. The Endangered Species Act, once dismissed as an impediment to growth, is now understood to be an important aid to the conservation of fish and wildlife and to sustainable economic development.

Working together over the past decade, we have brought Native Americans, all too often left languishing on the sidelines of water negotiations, into the mainstream of water policy. We have come to recognize that their treaty, constitutional, and legal rights must be fully acknowledged and included in stakeholder negotiations and in water management programs.

Working together, we have made a good start toward the coming century of cooperation and consensus - the water transfers, the Arizona innovations in water banking, progress toward remaining Indian settlements, California's progress toward living within its entitlement, environmental restoration in the Salton Sea, the implementation of habitat protection programs in both the upper and lower basins, the emerging outlines of an Animas-La Plata settlement, to mention the obvious ones.

OFFSTREAM BANKING RULE

On November 1st of this year, the Department published a final rule authorizing interstate agreements to store water offstream for future use. This rule fulfills one of the necessary conditions for the implementation of Arizona's water banking law, and opens the way for Nevada, which will be using its full entitlement of Colorado River water a few years hence, to assure that it will be able to meet its additional needs over at least the next several decades. And I am especially grateful to Senator Harry Reid for his relentless and always constructive efforts to bring this rule to completion.

The rule also opens the way for California to engage in similar negotiations with Arizona should it wish to use interstate banking as a tool in implementing its 4.4 plan. We look forward to implementation of the rule in ways that will also bring benefits to the Tribes. This rule is yet another indicator of the usefulness of consensual transactions among states to aid efficient utilization of Colorado River water.

CALIFORNIA 4.4 PLAN

Within the Lower Basin, 1999 has been a year of exceptional progress, centered upon planning for California to adjust its uses to come within its basic 4.4 million acre- feet apportionment. As we have discussed in previous conferences, our objective is demonstrated progress by California to be matched by the other basin states with agreement to revised surplus guidelines to assist California across the transition.

We reached another milestone in October when the negotiating teams for the Imperial Irrigation District, Coachella Valley Water District, and the Metropolitan Water District agreed on key terms for a quantification settlement agreement, and the agreement was approved by each of the three Districts. The San Diego County Water Authority also fully and helpfully participated in the talks, and I want especially to recognize the leadership provided by the State of California through Tom Hannigan, Director of the Department of Water Resources. My Deputy, David Hayes, was also indispensable in leading these negotiations. The proposed settlement opens the way to a long-term transfer of at least 200,000 additional acre-feet of water from agricultural to urban use in California, thereby accomplishing a major step toward reducing California's use of the Colorado River to its 4.4 million acre-feet annual entitlement. The quantification agreement achieves major breakthroughs in two respects:

First, it resolves a decades long dispute over interpretation of a 1934 contract between Imperial and Coachella over their relative rights to the third priority water that they share. The settlement effectively frees Imperial to transfer water to urban users in the Met service area, free of claims of prior right by Coachella. This is an outstanding example of successful consensus-based conflict resolution.

Second, the quantification settlement provides that Coachella and the Met will put aside for the 75-year term of the agreement a long-standing dispute over beneficial use by Imperial. This settlement similarly frees Imperial to transfer to urban users portions of the water allocated to it in the quantification.

Together, these two elements pave the way for implementation of the 1998 IID/San Diego County Water Authority transfer agreement. The proposed quantification agreement will also achieve several other goals that have remained unmet for a number of years. One in particular has been of special concern to me, and, as I have made clear each year in my presentations here, was a necessary condition to any quantification and transfer of water within California.

I am of course referring to implementation of the water settlement with the San Luis Rey Bands of Indians, which was the subject of legislation enacted in 1988 mandating a settlement of water rights claims with the five Bands. That settlement will be made possible by the long-awaited lining of the All-American Canal and the remainder of the Coachella Canal, which will produce about 92,000 acre-feet of additional usable water, of which 16,000 acre-feet will be used to implement a San Luis Rey water settlement. Negotiations between the Indians and the Met on means of implementation are currently underway, and I am hopeful that the detailed terms of implementation will be announced shortly.

The remainder of the water conserved by canal lining, about 76,000 acre-feet, will be used as an element of the quantification settlement among the three California Districts that I have just described. According to the law, the canal lining must be accomplished without federal funding, and thanks to the California legislature which appropriated the necessary funds last year, we are able to meet that condition.

The next order of business will be completion of required environmental review, and the development of surplus guidelines. Let me turn now to the second of those two matters.

SURPLUS GUIDELINES

The other piece of the California puzzle is the development of surplus guidelines. We have time to do the job right, but we do not have time to waste. On December 7th, the Department issued a notice of intent to prepare an EIS on surplus guidelines, following a series of scoping meetings that were held last spring. We are now getting environmental review under way, and beginning preparation of a draft that does the necessary groundwork for an EIS - evaluating the potential impacts of alternative interim criteria. We will move forward with that process while the states continue their search for a consensus. That search can continue even into mid-year 2000 if necessary. There is ample time for the states to work deliberatively toward a common end. We plan to publish a draft EIS in March of 2000, but it need not (most likely will not) contain a preferred alternative at that time. In short, we will continue moving forward on those things we *can* do, such as analyzing the features of various alternatives that have to date been put forward, while the states are seeking agreement and closure on a seven state consensus.

We will, however, produce a final EIS at the end of the year, and I intend to issue a record of decision one year from now, hopefully one that will be embraced by all seven basin states.

There is no need to rehearse here the various and differing proposals that have been identified. They are by now well known. I do, however, want to call attention to the following very important matters:

First is the need to develop and incorporate in the administration of surplus policy during the transitional period a method of assuring that adequate progress is being made toward achieving the California Plan's 4.4 million acre-feet goal. Monitoring periodic step-downs in use of Colorado River water will have to be one feature of surplus policy implementation, with defined progress as a necessary element of continued administration of any surplus policy.

Second, I recognize - and we all need to recognize - that the California parties have moved a huge distance in the past several years toward acknowledging the dramatic changes that need to be made in their demands on the River. Their ability to achieve those changes depends on an appreciation among the other basin states of the need for surplus guidelines that strike a fair accommodation between providing California a reasonable opportunity to effectuate a transition to their entitled quantum of Colorado River water, and the concerns of the other states for a high degree of security based on maintaining adequate water supplies in storage. These concerns need not be in tension with each other. The coming months offer both opportunity and the necessity to bring forward creative solutions that adequately satisfy the needs of every one of the seven basin states. This is not the time or the place to spell out the specifics of such solutions. Undoubtedly there are various ways to provide assurance that the provisions of a given surplus policy benefitting one state do not expose any other state's users to shortages during a transitional period while such a policy is being implemented. What we need now is a burst of creative energy that can bring about 7-state consensus, rather than contention. I will only say that I am determined to see this last central piece of the puzzle put in place before my watch ends.

THE SALTON SEA

Last year, I took special notice of the importance of the Salton Sea, and of the need to search out means to protect its vital functions while simultaneously implementing the California 4.4 Plan, a central element of which is reallocation of agricultural water out of the Imperial Valley. The Salton Sea is an important national and international resource for migrating and resident birds, and a significant fishery. It is, among other things, the site of a national wildlife refuge, and is of special concern because of the loss of wetlands we have experienced both in California and in Mexico.

I am committed to assuring that the Sea's unique values do not slip away from us by inaction or inattention. In that respect, I am very pleased to report to you that we are moving forward on schedule with our Salton Sea strategy, which is also a collaborative effort with local and regional stakeholders, including the Salton Sea Authority. The Draft Environmental Impact Statement on which we have been working will be ready as planned within a few weeks.

At the time the Draft EIS is issued, I will release an accompanying narrative statement that lays out several potential approaches for consideration, in accord with my commitment to address Salton Sea issues pursuant to the best information that careful study and good scientific research can provide us. I can tell you that while we are not yet in a position to identify the best long-term solution for the Salton Sea, our Draft EIS will identify some of the steps that can and should be taken now, such as periodically harvesting fish to prevent the massive die-offs caused by lack of balance in the Sea, and protecting the Refuge as a top priority, with evaporation ponds, some diking, and some desalination activity. These are among the steps that can be taken now. The Draft EIS looks out over the next three decades with a focus on assuring that the Sea and its primary values do not slip away from us as we work on long-term solutions.

Along that same line, I am pleased to report that work on the Multiple Species Conservation Plan is continuing in order to achieve Endangered Species Act compliance while continuing to meet our water and power commitments in the Lower Basin, just as we have been doing for some years in our Upper Basin ESA programs, which have shown commendable progress.

UPPER BASIN PROGRAMS

The Upper Colorado River Recovery Implementation Program has now been in effect for 12 years, and there is heartening progress toward recovery and improvement of several species - the Colorado pikeminnow, humpback chub, and razorback suckers, in both the Green and Colorado Rivers. As you know, we testified in support of H.R. 2348, the cost-sharing legislation for the recovery implementation programs in the Upper Colorado and San Juan River Basins which will provide federal cost sharing, in collaboration with the states and power customers, as well as providing a defined share of power revenues through the year 2005.

We expect the bill to move through the Congress next year. I am very pleased to recognize the tremendous efforts not only of the states, power customers, and water users, but of Tribal governments and environmental groups in crafting the proposed legislation. This is just the sort of showing of community responsibility for environmental protection and recovery that I hope to see copied throughout the country, and I am pleased that we, and the states, have been able to show leadership on this issue.

The time is also at hand for a final push to enact the Animas-La Plata project. That project has been stalemated now for more than 30 years. We now recognize that the original proposal could not be realized; the road to that recognition has been long and hard, and has

generated some fundamental re-thinking about how we could realistically fulfill our obligations to the Colorado Ute Tribes. In August 1998, I put forward a new approach on behalf of the Administration for the construction of a smaller offstream reservoir to provide water for Indian and M. & I. use only, together with a fund to purchase additional Indian water rights.

That approach - which has broad support in Colorado and New Mexico, and will fulfill our trust commitments to the Southern Ute and Ute Mountain Ute Tribes - is moving forward. A supplemental EIS is being prepared and should be available for public review and comment shortly after the first of the year.

Once the supplemental EIS is available, we will work with the Colorado and New Mexico delegations, the tribes, water users, and other interested parties, to close this long chapter and finally resolve the Utes' water rights through implementing legislation. We now have bipartisan support for a legislative solution, an important political fact that we cannot assume after the year 2000, irrespective of the outcomes of the Presidential and Congressional elections. The time to act is now.

ARIZONA ISSUES

We are continuing our efforts to negotiate a resolution to the prolonged financial dispute between the United States and the Central Arizona Water Conservation District, but closure on that matter is elusive. While negotiations continue on that front, we have made historic progress in shaping what is potentially the largest Indian water rights settlement ever with the Gila River Indian Community, and in finally implementing the 1982 Southern Arizona Water Rights Settlement Act on behalf of the Tohono O'odham Nation. The parties have now agreed upon a water budget for the Gila River Indian Community, and upon the sources of water for the settlement. This is, for me, an especially welcome and gratifying achievement, and I want especially to recognize the personal involvement and commitment of Senator Jon Kyl.

CONCLUSION

The work of the Colorado River will, of course, never be fully done. It is a story that began before our time, and will continue after all of us are gone. We have taken on a few pieces of unfinished business, and worked at them, not entirely successfully by any means, but we have made some forward motion. My greatest satisfaction is that whatever we have accomplished, we have done together, collaboratively, focusing on negotiation and agreement, rather than regulation and litigation, to address, and to bring to resolution, a number of very knotty problems. We have done it without disturbing the existing law of the River, or the existing governmental structure. I think we have shown that success is possible, and that with effort and good will, success can be earned. Along with whatever else we have been able to accomplish, I would like to leave the lesson that fruitful state-federal partnership can be achieved as our shared legacy on the Colorado River.

**Colorado River Water Users Association Meeting
Las Vegas, Nevada
December 14, 2000**

Remarks by Secretary of the Interior Bruce Babbitt

I am pleased to join you for the sixth consecutive year to review our progress on water issues in the Colorado River Basin. As this will be my final appearance as Secretary of the Interior, I want to begin by thanking you for the opportunity to work with you over the past eight years. I want especially to acknowledge the indispensable assistance of the water buffaloes here in the Interior Department who have traveled with me since the very beginning - Bob Johnson, Charlie Calhoun, and John Leshy and his staff in the Solicitor's Office. I have also benefitted greatly from Professor Joe Sax's wise-counsel over most of these years.

The extraordinary number of issues that we have worked on, and the many that we have brought to completion, marks this as the most intensive decade of change and transition in nearly a half century - at least since the momentous decade that led up to passage of the Colorado River Basin Project Act in 1968. The reasons are easy to discern. In the decades after 1968 our energies were directed to the build-out of infrastructure, the storage and diversion facilities necessary for all basin states to put their river entitlements to beneficial use. Within the last decade of the 20th century, however, we have moved from pouring concrete to building the institutions and partnerships necessary to efficiently manage this great river system.

And at the outset, I want to say that I am particularly proud of the way we have continually widened the circle of consultation and management to include full participation by tribal governments and to integrate environmental laws and policies into river management. Most recently we have begun to reach across the international border to work with our counterparts in Mexico who are also concerned about the Delta. And as the circle expands we have forged a series of working partnerships among traditional rivals, coming together to find mutually agreed upon solutions to long-standing problems without resorting to litigation.

In my remarks today I would like to review our progress over the past eight years and then suggest areas that will need your continuing attention well beyond my tenure in this office.

Tribal Governments: I take great satisfaction in the way we have, in recent years, brought tribal governments into the mainstream of Colorado River Basin policy and administration. Prior to *Arizona v. California*, tribal governments were relegated to watching from the sidelines as other parties negotiated. Then in the 1970s Arizona, under the leadership of the late Mo Udall, took the lead in working out negotiated water settlements for confirmation and enactment by the Congress. Those early efforts, along with the pioneering leadership of the Ten Tribes Partnership

and many individual tribal leaders, have flowered into a new era of consultation on matters affecting the river and a long string of negotiated settlements.

As I speak the Congress is at the threshold of approving the Colorado Ute Settlement Act Amendments, arrived at through lengthy negotiations among the Department, the Ute tribal governments and other stakeholders. This legislation will enable us to at last meet the commitments to the Ute tribes made by the United States long ago.

The Ute Settlement amendments reflect several important aspects of administration policy that should continue to guide our efforts throughout this Basin in coming years. First, we have achieved full environmental compliance under the Endangered Species Act and the National Environmental Policy Act, and we have a much better program as a result. Second, the Act also meets our Indian obligation without larding on costly, environmentally destructive expansion of non-Indian agricultural entitlements. I want to express my gratitude to the Ute tribes for their patience and flexibility, to the communities of southwest Colorado, who supported the project amendments in recognition of the benefits that will accrue for the entire region, and to the Governor, Attorney General Salazar, the Colorado delegation and the Colorado legislature.

In California, we have negotiated a final settlement to provide a permanent water supply to the San Luis Rey Bands of Indians as authorized by Congress in 1988. The key to this settlement was water to be saved from lining the All American Canal, made possible by the cooperation of the Imperial Irrigation District, the Coachella Valley Irrigation District, the Metropolitan Water District, and the California Legislature. The water allocation agreement that we forged was codified into law earlier this fall with the assistance of Congressman Ron Packard, who has been a great friend and partner in this venture.

In Utah, within the past year the Congress has approved a negotiated water settlement with the Shivwits Tribe. Although it involves a relatively small entitlement, 4000 acre feet, the settlement provides yet another excellent example of how basin issues can be successfully resolved. The settlement complies fully with the Virgin River recovery programs under the Endangered Species Act. And some of the water will be made available and delivered to tribal lands through a partnership agreement utilizing the water infrastructure of the neighboring city of St. George.

In Arizona, the Department convened a large group of stakeholders to discuss settlement of remaining claims in the watershed of the Gila River, including the claims of Gila River Indian community, whose historic water use and reserved rights are by far the largest of any Indian tribe in Arizona, or for that matter anywhere in the West. With the active support of Senator Kyl and the Arizona Department of Water Resources, and after several years of difficult negotiations, we have agreed now upon the framework of a water budget for the tribes.

Our progress on this Central Arizona settlement legislation - if all goes as expected and with attention to some matters that need to be addressed before the legislation is finalized - will resolve outstanding Indian water rights claims and end litigation involving the Gila River Indian

Community, the Tohono O'odham Nation, and the San Carlos Apache Tribe, and will set aside water for settlement of future tribal claims, as well as provide water for future non-Indian needs. Under the bill, nearly half of CAP water will be available for Indian tribes in Arizona, and a firm funding source will be provided to fund infrastructure and other costs associated with tribal use of their water rights. In addition, the settlements act bill introduced by Senators Kyl and McCain (S. 3231) will, if amended to address our remaining concerns, resolve years of unproductive litigation by bringing much needed certainty to repayment and operation issues associated with the Central Arizona Project.

We expect within the next week or two to send a letter to Congress stating our view of the changes that we believe are necessary, and I anticipate that the settlement will be confirmed in the next Congress. Once that is done, we shall have met an important legal and moral commitment to the tribes and to the benefit of Arizona, and we shall have done so in a way that respects Arizona's water management system.

There are more water settlements yet to come, notably with the Navajo, Hopi and Zuni tribes in the Little Colorado River Basin. Nonetheless we are now within sight of complete resolution of Indian claims throughout the entire Basin. We should take special note of this remarkable transformation that we are well on the road to completing. Indian water issues, once viewed as an insurmountable obstacle or a threat to the economic well being of non-Indian communities, have now been worked out and accommodated within the framework of the law of the river without major dislocation and in ways that assure that water supplies will be developed for the benefit of both the Indian and non-Indian communities in our respective states.

Environmental Issues: I also take great satisfaction in the way we are finally making environmental concerns a priority in the river basin. For many decades, we developed basin water supplies with scant attention to protection of the natural values of the river system. Since the passage of NEPA, the Endangered Species Act and other environmental laws, that has changed.

In recent decades our concerns have broadened to include endangered species, salinity control, dam-induced modification of historic river flows, contamination of the Salton Sea, and the concerns presented by the diminution of traditional streamflows to the Mexican delta. In the process, we have repeatedly demonstrated that we can blend environmental laws into the law of the river and that it is possible to restore a more natural river system while providing adequate water supplies for the growing population within the basin.

Salton Sea: The increasing salinity of the Salton Sea and the related massive die-off of wildlife took us by surprise in 1996. With timely assistance from the Congress, the Salton Sea Authority and the Bureau of Reclamation have completed a draft Environmental Impact Statement examining the alternatives for protection of the resource values. The science team under the leadership of Dr. Milton Friend has provided many new and important insights into the problems, illuminating their complexity, among other things, and identifying possible solutions. Several pilot projects to demonstrate de-salting technologies are now in progress.

MSCP: In the Lower Basin we are now embarked upon the multiple species conservation plan (MSCP). This is still a work in progress. Nevertheless, there is every reason to be optimistic about our prospects for success. In the last 5 years we have completed scores of habitat conservation plans, including some - such as those in San Diego, Orange, and Riverside counties - of very considerable scope and complexity. Once in place, the MSCP will produce important benefits. The goal is to develop aquatic and terrestrial habitat along the lower Colorado River that will move several listed species toward recovery, and prevent other species from having to be listed, while allowing continued use of the river for water supply and power generation.

The current schedule calls for a plan to be completed by April, 2002, and while many controversial issues remain to be resolved - among them establishing a formula for cost-sharing, obtaining sufficient water to support the development of new habitat, and providing appropriate assurances about future compliance - I am confident that the plan is on the right track and will timely come to fruition. To be sure that the MSCP is done, and done right, I want again to urge our colleagues in the environmental community to re-join us in this vital effort.

The Upper Basin Recovery Plan: The restoration of endangered fish populations in the Upper Basin is an ongoing success story. On October 30th, President Clinton signed legislation setting in place long-term funding based on cost-sharing for the Upper Colorado and San Juan River Recovery Implementation Programs. The four upper division states have approved the cost share proposal. Public Law 106-392 authorizes and provides funding for continued implementation of the endangered fish recovery programs in the Upper Colorado and San Juan basins. The legislation emerged from a process in which the states committed to providing a portion of the funding, and in which both dollar and time limits were set for the program. As an example, of the \$100 million authorized for capital projects, 46% will be paid from federal funds, 17% in state contributions, 17% in power revenues, and 20% through a credit to the state of Colorado for contributing water and credit to power users for purchasing power to replace lost generation as a result of operational restrictions at Flaming Gorge Dam.

I mention this because, as a successful cooperative environmental recovery program, it could provide a pattern for both funding and collaboration on the MSCP in the Lower Basin. The Upper Basin Recovery Implementation Plan, begun in 1988, brings together not only the states of Colorado, Utah, and Wyoming, but water development interests, hydropower interests, and environmental organizations such as Environmental Defense and the Nature Conservancy, as well as a coalition of federal agencies including the National Park Service, the Bureau of Reclamation and the Fish and Wildlife Service.

The Endangered Species Act is of course an important agent of change in river management but this remarkable law - which responds to a deep cultural and ethical command - has done far more good than harm in the cause of sensible water management. We have found ways to meet its requirements successfully, and it deserves our continued support.

The Colorado River Basin Salinity Control Program is finally becoming another environmental

success story. In 1994 the Bureau of Reclamation completely restructured this program to invite competitive bids for the most cost effective programs to reduce salt loading in the river system. The result is a paradigm of federal, state, and private partnership that has generated 23 projects in the basin. It is a model of cost effectiveness, and has driven salinity control expenses down from \$80 to \$30 a ton.

In coming years we will find many more innovative ways to further the task of river restoration. Our science-based Glen Canyon Adaptive Management Program is an important demonstration of such possibilities. From these studies, carried on over a ten year period under the leadership of the USGS and the Bureau of Reclamation, we successfully demonstrated, in the widely publicized flood release in March of 1996, how river regulation can rebuild and restore beach habitat downstream.

The Delta: On May 18th of this year, Secretary Carabias of Mexico's Secretariat of Environment, Natural Resources and Fisheries, and I, issued a joint declaration pledging to work together "To strengthen cooperative action and mechanisms to improve and conserve the natural and cultural resources of the Colorado River Delta." Following up on that declaration, we held a day-long session in Washington in October to bring together Colorado River stakeholders in the United States to begin looking at possible approaches to Delta needs.

Just this week, on December 12th, the United States and Mexican sections of the International Boundary and Water Commission signed a Conceptual Minute to the 1944 Water Treaty Concerning the Colorado River and Its Associated Delta. This Conceptual Minute will provide a framework for binational cooperation - including all stakeholders on both sides of the border - on how to improve the riparian and estuarine ecology of the delta and to find a balance between all the competing water users and resource needs on a basin-wide scale.

To be sure, these steps are only a beginning, but they serve to identify a key agenda item for our two nations as the new century begins. We already have in place several elements of a new era of environmental collaboration and cooperation with our neighbors in Mexico. The Fish and Wildlife Service has been working with its Mexican counterparts on developing management protocols for two biosphere reserves, Pinacate and Alto Golfo, that Mexico established in 1993. More recently proposals have been made to establish a new Sonoran desert protected area in southwestern Arizona that would adjoin the biosphere reserves and that could be symbolic of a joint commitment to protecting the border region environment and sustaining its economy.

I want to emphasize that dealing with the needs of the Delta may be the single most important piece of unfinished business on the Colorado River, and I urge you, as water users on the American side of the border, to approach this issue proactively. We know there are a number of potential win/win opportunities that can and should be explored in bilateral negotiations and with the advice of stakeholders in both countries - among them are water banking, new opportunities for use of Mexicali Valley drain water, and water purchases from both Mexican and U.S. users, just to mention a few.

Water Allocation: Perhaps our greatest achievement of the past decade is working out new water use arrangements in the Lower Basin. By 1990, Arizona had reached full utilization of its apportionment, California was drawing nearly a million acre feet above its apportionment, and Nevada was chafing under compact apportionment limitations entered into at a time when no one anticipated the growth future of Las Vegas and Clark County. These combustible realities could have exploded into decades of litigation, but wisely, we instead agreed upon a course of careful analysis and thoughtful negotiation. Reading over the texts of my remarks at previous meetings has refreshed my memory as to just how difficult these negotiations have been over the past eight years. But we have succeeded, and we are now ready to publish the final rules and regulations that will implement our agreed solutions.

As we joined with you to negotiate these matters, we have attempted to demonstrate that changes in water use can be made without economic dislocation and with enhancements to the environment. At every turn we have emphasized the importance of water use efficiency and the development of market mechanisms.

California: The key to bringing California's Colorado River uses into line with its allocation has been to craft a realistic step-down of reductions in its demands, reductions that will be facilitated by the adoption of improved, predictable criteria for declaring surpluses at Hoover Dam, during the implementation period, that are acceptable to all the basin states. This has been a difficult process, and it has taken extensive negotiation over a considerable period of time. I want to congratulate all the basin states for their efforts and their achievement.

Fundamental to this agreement is, of course, the California Colorado River Water Use Plan which calls for a combination of conservation and intra-state exchanges that will reduce California's dependency on surplus. Among the elements of the Plan are the transfer of at least 200,000 acre-feet of water from the Imperial Irrigation District to San Diego, as well as the water from the earlier IID/MWD transfer, to be transported through the Colorado River aqueduct; lining of the All-American canal and additional portions of the Coachella canal; the negotiation of contractual dry-year options with agricultural irrigators to make available mutually agreed-on temporary supplemental supplies; and the use of offstream groundwater storage during wet periods to provide an additional source to be available during normal or shortage years. By these means, during the period ending in 2016, California intends to reduce its reliance on Colorado River water to its 4.4 million acre-feet apportionment. The interim surplus criteria that I will soon put into effect will contain specific benchmarks, conditioning the continuation of those criteria on California's achievement of specified reductions in its need for Colorado River surplus.

In the process of crafting a comprehensive California plan, a quantification agreement has been negotiated between the Imperial Irrigation District, the Coachella Valley Water District and the Metropolitan Water District of southern California resolving a dispute of more than 65 years' standing, which opened the way to the IID-San Diego transfer. I am pleased to report that the California parties and my office have now reached agreement on a new legal framework that quantifies the California entitlement and that will allow the California Plan to be fully

implemented. The Boards of the three primary California contractors involved - IID, CVWD, and the MET - adopted a resolution last night which confirms the successful conclusion of these negotiations, and which releases all of these legal documents for public review.

I am especially grateful to my Deputy Secretary, David Hayes, for his leadership in bringing these many complex negotiations to a successful conclusion. His ability to translate the various parties to each other and his patience in staying with the issues until they are resolved have been key to our success here.

I am satisfied that the California plan is realistic and will be achieved, for at least three reasons:

First, urban Southern California has demonstrated that it is serious about restraining water consumption. Through conservation and water recycling programs, 700,000 acre-feet of water a year, more than the entire water demands for the City of Los Angeles, have been saved in the Met's service area. The Met projects that these savings will double over the next 20 years.

Second, the combined IID/MWD and the IID/San Diego water transfers will together provide a substantial increment of water, establishing a solid base on which to build further implementation of the California Colorado River Water Use Plan.

Third, the implementation of the CALFED agreement promises to help stabilize the water supply situation throughout the state. The statewide CALFED agreement signed in August owes much to the MWD's early recognition that it had a big stake in both water reliability and quality, and to its constructive participation in the program. Like the work you have been doing in the Colorado basin, the CALFED program also incorporates the fundamental elements of a successful water plan, including incentives for efficiency, the use of market transfers, and a commitment to environmental restoration.

Nevada: As Nevada has moved toward utilization of its entire Colorado River allocation, the search for an innovative means to assure that it could meet its needs during the coming decades became a high priority concern. Thanks to the creative and cooperative efforts of our colleagues in Nevada and Arizona, a novel and imaginative solution has been developed. Arizona enacted an offstream banking law that will permit it to store water that is not currently needed in Arizona, so that in future years that water can be used in substitution for comparable amounts of Colorado River water to which Arizona is entitled, and the river water can be made available to other lower basin states where it is needed. We then put in place the final federal rule needed to make the Arizona interstate offstream banking program operative under Arizona law. As a result negotiations are underway between Arizona and Nevada so that Nevada (and perhaps California as well) will be able to make use of the Arizona program to avert near-term shortages.

Conclusion: As I look back on Colorado River efforts over the last eight years, I believe we can be justly pleased to have demonstrated two things that will prove to have lasting significance, not

only for the Colorado basin, but for western water issues more generally:

First, we have learned some important lessons about process. The law of the river is not a prison that constrains us from creativity. We can work within it, and we can do what needs to be done to meet contemporary needs on the river. Moreover, we can do it among ourselves with working partnerships, within the states, among them, between the states and the United States, and with tribes and other affected interests. We have worked together and made our partnerships work.

Second, we have learned that flexibility in managing the river's limited supply of water can significantly stretch that supply to meet new and increasing demand. We are showing that California, for all its burgeoning urban growth, can bring its call on the river down to its legal entitlement. We have in place tools by which Nevada, whose current development was wholly unexpected when the river was divided among the states, will be able to meet its 21st century needs. We are seeing the potential of new tools like offstream banking, aquifer storage and recovery, dry year options, inter- and intrastate negotiations, and water marketing. We are demonstrating the capacity of river management, employed in a nuanced way, as with the surplus criteria, to enhance our ability to meet both short and intermediate-term needs.

These are major accomplishments, not only for the Colorado River, but as examples to others of what can be done by engaged stakeholders, along with state and federal representatives who are committed to finding fixes, rather than re-fighting yesteryear's battles .

The past eight-years have been a productive time for those of us who use and benefit from the Colorado River, in both the upper and lower basins. But, inevitably, for all our efforts, we leave far more yet to be accomplished than has been done by us. As individuals we pass quickly from the scene, but the river itself, as a resource vital to both human and natural communities, remains; and the obligation remains to look forward to the needs and responsibilities of those who will follow us. No single resource is more important to the American Southwest and to northwestern Mexico than this great river. Let history show that we managed it wisely and set a steady course for the generations to come. Thank you.

**Remarks of Bennett Raley,
Assistant Secretary for Water and Science, Department of the Interior.
Colorado River Water Users Association
Las Vegas, Nevada
December 13, 2001**

Good morning. My name is Bennett Raley. I am the Assistant Secretary of the Interior for Water and Science. It is an honor to be here on behalf of Secretary Norton to discuss issues of vital importance to the Colorado River basin.

Two days ago President Bush observed that "We will never forget where we were, and how we felt, on September 11th." On that day I was with many of you in Mexicali at the bi-national symposium on the Colorado River Delta. Early that morning I was reviewing the message from the Department of the Interior that I was to deliver at the symposium. Bob Snow, of the Solicitor's office, knocked on my door and told me about the first plane. We turned on the TV in time to watch the first video of the attack on the second World Trade Center tower. With great difficulty, we returned to the work at hand.

Our decision to proceed that morning was based on our instinctive desire to prove that the United States will never yield to terror. Today, I know that this was the right decision. The President and Secretary Norton want us to "stay the course."

I am here today to tell you that with respect to the Colorado River, that is exactly what the Department of the Interior intends to do. Our course has been set by the concepts of federalism embedded in the United States Constitution, the Colorado River Compact, the Treaty with Mexico, and the rest of the Law of the River. And as we work together in the coming years, it is important that you know that we are committed to preserving and defending the sanctity of

Treaties, the integrity of Compacts, and the enforceability of contracts. We also believe in limited government, because we know that when the people of this great nation work together to solve complex problems the results will be superior to and more enduring than anything the federal government has to offer. Finally, I want you to know that the Secretary and I are proud, very proud, of the Bureau of Reclamation.

Standing here, so near Hoover Dam, we can justly take pride in the efforts of our predecessors that brought electric energy to this region, and water for great cities and world-class agriculture. And while there are very important and difficult issues that must be addressed in this basin in the next year, Secretary Norton has made an unqualified commitment to consult, cooperate, and communicate with you to address these issues.

During the past few years, we have witnessed something that many in the basin had long thought impossible -- a coming together of the seven Basin States in a way that has not existed since 1922. We believe that this triumph of federalism has generated a successful mix of programs and plans that will permit us to make the best and fullest use of this vital, but limited, resource while ensuring that each State and our neighbors in Mexico are able to enjoy their full legal entitlements. At the same time, these programs should enable us to meet the new and challenging demands on the River.

It is a tribute to those of you who have worked together over the past decade on these issues that every element of the programs you have fashioned is in accord with the compacts, treaties, statutes and contracts, upon whose faithful implementation the integrity of the law of the river rests — and must continue to rest.

Among the essential elements of your work are:

- Arizona's offstream banking program, and the federal regulations for implementing it that were called for by Arizona's law; Nevada and Arizona are putting the final touches on the arrangements necessary to allow this program to meet Nevada's emerging needs;
- The crafting of a long-awaited California 4.4 Plan so that California can bring its demands on the River within its legal entitlement;
- A quantification settlement among the California agricultural agencies that is essential to the voluntary re-allocation of Colorado River water within California. This agreement allows for the transfer of water between the Imperial Irrigation District and San Diego. This point highlights the importance of respecting existing water rights in the west if we are to have the certainty necessary to encourage the use of market mechanisms to meet the needs of the future;
- The emergence of a framework for resolving tribal water entitlement claims for the San Luis Rey bands of Indians;
- The development of interim surplus guidelines agreed to by all the basin states, so that the needs of users within California can be reliably met during the interim period required to bring California's Colorado River Water Use Plan to fruition.

At the same time that we move forward with these efforts, we are working to fulfill our conservation and trust responsibilities throughout the basin. As we near the centennial of the landmark decision in *Winters*, we are working to facilitate tribal utilization of their reserved water rights. We recognize the importance of facilitating Indian water rights settlements and this Administration strongly favors negotiated settlements where possible. Secretary Norton has

convened a Working Group of senior Departmental officials to guide, and facilitate, progress on settlements. In Colorado, we are pressing forward with construction of the Animas-LaPlata Project which will allow the United States to meet its promises to the Colorado Ute Tribes. We are also actively pursuing a Global Arizona Water Rights Settlement involving the Gila River Indian Community.

In addition, we are moving ahead to meet our environmental obligations. In the Upper Basin, the well-established Recovery Implementation Program is an example of a collaborative program that works - as recently as last Thursday agreements were reached to extend this essential program. In the Lower Basin, many stakeholders are working together on the Multi-Species Conservation Plan to craft a viable conservation plan designed to address the needs of listed species and water users for decades to come. I would encourage the various environmental groups to take a renewed interest in this program - and work with us on its implementation. The MSCP offers the best chance to address the needs of currently listed species and to prevent the need for additional listings in the Lower Basin.

We continue to work toward an appropriate resolution of Salton Sea restoration issues. And we are engaged cooperatively with Mexico in order to facilitate bi-lateral discussion regarding the future of the Delta.

These are extraordinary steps toward resolving issues that have haunted us for most of the last century. But the job that has been begun so impressively is by no means finished. We still have a long way to go. We must not falter, and we must rededicate ourselves to work together to finalize these initiatives, and in particular the efforts to bring California's use in line with its apportionment. As you know, California's commitment to live within an apportionment of 4.4

million acre-feet was one of the conditions that allowed ratification of the 1922 Compact and construction of Hoover Dam to proceed.

I must say that with every passing day the Secretary and I grow more concerned about the ability of entities in California to comply with the commitments in the California 4.4 Plan. Time is of the essence, and it is vital that we together complete each of the required elements of the 4.4 Plan implementation - and complete them on schedule. And while the Department strongly prefers to implement the solution crafted by all of you, in the end the Secretary, as watermaster of the Lower Basin, will enforce the law of the River.

The interim surplus guidelines depend on attaining benchmarks -, i.e., specific reductions - of Colorado River water use in California. If California is not successful in implementing the 4.4 Plan, the results could be grave for California. The Secretary is enjoined by the Supreme Court Decree from delivering water to California beyond its 4.4 million acre-feet allocation unless surplus water is available. If we experience several more dry years like 2001, and if the required benchmarks are not met, California would have to reduce its usage in a much shorter time frame than currently planned under the interim surplus guidelines. While such an eventuality would immediately impact urban water users in Southern California, they would not be the only ones harmed.

The risk of loss of surplus water for urban users in California would undoubtedly provoke renewed demands to investigate beneficial use by agricultural users in California, a longstanding source of conflict within that state. This would certainly be an extremely divisive matter that could undo much of the progress we have collectively been making on river management in the basin.

Nor would the impact be limited to the Lower Basin. Any inability to meet Southern California's water needs from existing sources tends to set off a controversy that reverberates up through the Central Valley and the Sacramento River basin. We do not want anything to ignite North-South conflicts in the Golden State.

Neither are the other basin states immune from the troubles that could arise. If California's performance benchmarks for implementing the interim surplus guidelines are not met, and if we experience several dry years, water availability would be determined by enforcement of the Supreme Court Decree, and we could find California and the other basin states in contention over the criteria that should be applied to define surplus and shortage. In short, trouble in California growing out of controversy on the Colorado River is adverse to the interests of all of the basin states and their citizens.

In contrast, we all have so much to gain from successes. Secretary Norton has identified further progress on the Colorado as one of her top priorities for the Department and has asked me to work actively and intensively with the California parties to help achieve reasonable resolution of problems that remain. Secretary Norton has committed to make the staff and expertise of the Department available, as needed and desired, to help you fashion those solutions.

As we proceed, Secretary Norton believes that the Colorado River agenda for the coming year should address at a minimum the following:

- Environmental compliance on the Imperial/San Diego transfer and the Quantification Settlement Agreement needs to move along more expeditiously.
- We need to work together to find acceptable resolution of Endangered Species Act issues on the Salton Sea. While a long term approach, with a habitat conservation plan under section 10

of the ESA is preferable, the Department will consider moving forward under Section 7 of the Endangered Species Act.

While we must focus on these issues in the short-term, there are two large and long-term issues that demand our continuing attention: the fate of the Salton Sea, and the issues surrounding the Mexican Delta.

As to the first,

- It is important to keep in mind that restoration of the Salton Sea, in all its complexities, is separate from what is necessary to implement the California 4.4 Plan. The continuing efforts to determine a long-term resolution of Salton Sea issues should go forward on their own schedule. The California 4.4 Plan cannot and should not be held hostage to the larger issues presented by the Salton Sea.

As to the Delta;

- We support Minute 306 adopted by the International Boundary and Water Commission calling for a framework of cooperation between the two countries. In partnership with the IBWC, we will continue working with the Mexican government on a bilateral basis, in an effort to identify programs consistent with our treaty commitments, that can aid conservation efforts for the Colorado River Delta in Mexico. We recognize that this process will only succeed if the Basin States, along with the other stakeholders in the basin, are included in the search for creative, and acceptable solutions. Of course, there must be a sound scientific basis for any proposed solution, which will require additional research to fill existing data gaps. However, while these efforts proceed, we cannot ignore the

pressing needs of the growing communities in Mexico along our shared border and the challenges our neighbors are facing in this regard. Any continuing dialogue on the Delta issues must recognize the sovereignty of Mexico, the bilateral agreements forged in the 1944 Treaty and the full spectrum of water issues facing Mexico in the Delta region.

In conclusion, I want to express my congratulations and appreciation to all of you who have worked so hard for so long to bring us so far toward success on the Colorado River issues I have outlined today. On behalf of Secretary Norton, I want to assure you of the Department's -- along with my personal -- support and commitment -- to work with you to get the job done.