

RESOLUTION OF THE  
UPPER COLORADO RIVER COMMISSION

Regarding the Availability of Water from Navajo Reservoir for Navajo Nation Uses  
within the State of New Mexico

WHEREAS, the State of New Mexico has proposed the Navajo-Gallup Water Supply Project to provide a needed renewable water supply from the San Juan River for municipal and domestic uses for Indian and non-Indian communities located within New Mexico in both the Upper Basin and the Lower Basin; and

WHEREAS, the State of New Mexico and the Navajo Nation on April 19, 2005, executed the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement (the "Settlement Agreement"), which is conditioned upon, among other things, the implementation of the Navajo Nation components of the Navajo-Gallup Water Supply Project within New Mexico; and

WHEREAS, the source of water supply for the proposed Navajo-Gallup Water Supply Project would be Navajo Reservoir and the San Juan River in New Mexico; and

WHEREAS, water from Navajo Reservoir and the San Juan River would be delivered to the proposed Navajo-Gallup Water Supply Project to meet the water demands of Navajo Nation communities in New Mexico through a proposed Settlement Contract between the United States, acting through the Secretary of the Interior, and the Navajo Nation (Appendix 4 to the Settlement Agreement); and

WHEREAS, Public Law 87-483 at section 11(a) requires that no new long-term contracts "... shall be entered into for the delivery of water stored in Navajo Reservoir or any other waters of the San Juan River and its tributaries, as aforesaid, until the Secretary has determined by hydrologic investigations that sufficient water to fulfill said contract is reasonably likely to be available for use in the State of New Mexico during the term thereof under the allocations made in articles III and XIV of the Upper Colorado River Basin compact, and has submitted such determination to the Congress of the United States and the Congress has approved such contracts"; and

WHEREAS, pursuant to Public Law 87-483, and in furtherance of the Jicarilla Apache Tribe Water Rights Settlement Act of 1992 and the Navajo Reservoir water supply contract approved by said Act, the Secretary of the Interior on February 2, 1989, approved the report on "Hydrologic Determination, 1988. Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico" (the "1988 Hydrologic Determination"); and

WHEREAS, the 1988 Hydrologic Determination evaluated the availability of water from the Navajo Reservoir supply for uses in New Mexico through the 2040 planning horizon; and

WHEREAS, an update and extension to the 1988 Hydrologic Determination is needed to evaluate the availability of water from the Navajo Reservoir supply through a 2060 planning horizon under the allocation of water made to the State of New Mexico by the Upper Colorado River Basin Compact for the purpose of furthering Congressional legislative approval of the Settlement Agreement, the authorization of the proposed Navajo-Gallup Water Supply Project, and the legislative approval of the proposed Settlement Contract for the Navajo Nation's project uses in New Mexico; and

WHEREAS, the proposed Settlement Contract between the United States and the Navajo Nation would provide water supplies for Navajo Nation uses in New Mexico under both the Navajo-Gallup Water Supply Project and the Navajo Indian Irrigation Project which was authorized by Public Law 87-483, and would supersede the existing Navajo Reservoir water supply contract for the Navajo Indian Irrigation Project; and

WHEREAS, the US Bureau of Reclamation has presented to the Upper Colorado River Commission for its consideration a draft hydrologic determination, dated May 2006, that evaluates the availability of water from the Navajo Reservoir supply through 2060 and shows: (1) at least 5.76 million acre-feet of water is reasonably available annually for use by the Upper Basin, exclusive of reservoir evaporation at Lake Powell, Flaming Gorge Reservoir and the Aspinall Unit reservoirs of the Colorado River Storage Project; and (2) sufficient water is reasonably likely to be available from the Navajo Reservoir supply to fulfill the proposed Settlement Contract for the Navajo Nation's uses in New Mexico under the Navajo-Gallup Water Supply Project and the Navajo Indian Irrigation Project, in addition to existing Navajo Reservoir water supply contracts for other uses, under the allocations made to New Mexico in Articles III and XIV of the Upper Colorado River Basin Compact; and

WHEREAS, the Settlement Agreement would provide at subparagraph 9.3.1: "The Navajo Nation and the United States agree that the State of New Mexico may administer in priority water rights in the San Juan River Basin in New Mexico, including rights of the Navajo Nation, as may be necessary for New Mexico to comply with its obligations under interstate compacts and other applicable law"; and

WHEREAS, the Upper Colorado River Commission supports water resource development in the Upper Colorado River Basin to enable the Upper Division States to fully develop their compact apportionments of Colorado River water while meeting compact obligations relating to the flow of the Colorado River at Lee Ferry; and

WHEREAS, it is the position of the Upper Colorado River Commission and the Upper Division States that, with the delivery at Lee Ferry of 75 million acre-feet of water in each period of ten consecutive years, the water supply available in the Colorado River

System below Lee Ferry is sufficient to meet the apportionments to the Lower Basin provided for in Articles III (a) and III (b) of the Colorado River Compact; and

WHEREAS, it is the position of the Upper Colorado River Commission and the Upper Division States that the obligation of the Upper Basin under Article III(c) of the Colorado River Compact to deliver water toward the Mexican Treaty obligation does not require the delivery at Lee Ferry of 0.75 million acre-feet of water annually; and

WHEREAS, the Upper Colorado River Commission anticipates that the Upper Division States will take all actions necessary to ensure that all Upper Basin States have access to their respective apportionments as specified in the Upper Colorado River Basin Compact; and

WHEREAS, the Upper Colorado River Commission on June 19, 2003, resolved that: (1) "the States of Colorado, New Mexico, Utah and Wyoming, support and to the extent necessary consent to the diversion of water from the Upper Basin for use in the Lower Basin solely within New Mexico via the proposed Navajo-Gallup Water Supply Project; provided, that any water so diverted by said project to the Lower Basin portion of New Mexico, being a depletion of water at Lee Ferry, shall be a part of the consumptive use apportionment made to the State of New Mexico by Article III (a) of the Upper Colorado River Compact;" and (2) "the Upper Colorado River Commission supports such Congressional action as may be necessary to authorize the Navajo-Gallup Water Supply Project."

NOW, THEREFORE, BE IT RESOLVED by the Upper Colorado River Commission, that the Commission supports Congressional action to: (1) approve the Settlement Agreement; (2) authorize the proposed Navajo-Gallup Water Supply Project; and (3) approve the proposed Settlement Contract for the Navajo Nation's uses in New Mexico from the Navajo Reservoir supply under the Navajo-Gallup Water Supply Project and the Navajo Indian Irrigation Project.

BE IT FURTHER RESOLVED, that while the Upper Colorado River Commission does not endorse all of the study assumptions used by the Bureau of Reclamation in its May 2006 draft hydrologic determination, including an assumption of a 6 percent allowable overall shortage, and specifically disagrees with the modeling assumption of a minimum Upper Basin delivery of 8.25 million acre-feet annually at Lee Ferry, the Commission supports a determination by the Secretary of the Interior that at least 5.76 million acre-feet of water is available annually for use by the Upper Basin, exclusive of reservoir evaporation at Lake Powell, Flaming Gorge Reservoir and the Aspinall Unit reservoirs of the Colorado River Storage Project.

BE IT FURTHER RESOLVED, that the Upper Colorado River Commission supports a determination by the Secretary of the Interior that sufficient water is reasonably likely to be available to fulfill the proposed Settlement Contract for the Navajo Nation's uses in New Mexico from the Navajo Reservoir supply under the Navajo-Gallup Water Supply Project and the Navajo Indian Irrigation Project, in addition

to existing Navajo Reservoir water supply contracts for other uses, under the allocations made to New Mexico in Articles III and XIV of the Upper Colorado River Basin Compact.

BE IT FURTHER RESOLVED, that nothing in this Resolution, or resulting from the adoption of this Resolution, shall limit the right or ability of any Upper Basin State to develop the full apportionment made to it under the Colorado River Compact and the Upper Colorado River Basin Compact.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the Regional Director, Upper Colorado Region. Bureau of Reclamation, Salt Lake City. Utah.

#### CERTIFICATE

I, Don A. Ostler, Executive Director and Secretary of the Upper Colorado River Commission, do hereby certify that the Upper Colorado River Commission adopted the above Resolution at its regular meeting held in Jackson Hole, Wyoming, on June 5, 2006.

WITNESS my hand this 9th day of June 2006.



DON A. OSTLER  
Executive Director and Secretary



**Whipple, John J., OSE**

**From:** Don Ostler [dostler@uc.usbr.gov] **Sent:** Fri 7/7/2006 4:47 PM  
**To:** Lopez, Estevan, OSE; Dantonio, John, OSE; Whipple, John J., OSE; Trujillo, Tanya, OSE  
**Cc:**  
**Subject:** Fwd: HD Briefing for LB States  
**Attachments:**

As you know, Dave Trueman will be briefing the lower basin states on the hydro determination on July 13th. He has provided us with his talking points that he intends to use (see below).  
 Don Ostler

>>> Dave Trueman 07/07 4:00 PM >>>  
 Don,

Here are my talking points for the briefing. Please pass them on to NM. By the way, I'll be attending the Friday meeting too.

Regards - Dave

Goals we wanted to achieve with the HD:  
 Improved consistency between historic CUL, future demands, and Natural Flow accounting  
 Improved CRSP reservoir evap accounting  
 Avoid critical Compact interpretations  
 Recognize the appropriate role of the UB States in managing their water development

Review the legal requirements of Act  
 Role of the Secretary in the HD - Does the Secretary have the authority to restrict UB development? No.

The yield is driven by assumptions.

In theory it might range from 6.75 to 7.5 maf/yr under certain Compact delivery and existing natural flow assumptions

Ultimately it depends upon how much risk the UB States are willing to bear regarding a long list of potential assumptions:

Water Supply: climate change, Compact deliveries, measurement uncertainties

Storage: sedimentation, new construction, power generation

Uses: conversions, conjunctive use, resiliency (flexibility to deal with drought), curtailment plans, measurement uncertainties, physical shortages

Reclamation and the Secretary look to the UB States to identify their water development plans. UB States work thru the UCRC.

UB States basically looked at the yield, allocation, and water supply needed to support NGWSP and judged whether or not

it is reasonably likely to be available.

Water availability from Navajo Reservoir storage is addressed in Reclamation's Navajo-Gallup EIS and BA/BO

Review the Spreadsheet Model

Disclaimer: Does not determine yield... shows sensitivity to various assumptions

Based on annual mass balance of entire UB uses, storage system, and CRSP evaporation

Common Elements: Revised CRSS Natural Flows and Historic CRSP Evap Relationship

Sensitivity Analysis: Storage (Live-Active), Compact deliveries

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(7.5-8.25maf/yr), shortage (0-6%)

Conclusions:

UCRC finds water supply is reasonably likely to be available for the NGWSP from the UB water supply and NM's UB allocation.

Reclamation finds the water is reasonably likely to be available from Navajo Reservoir for contracting.

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OSE-1487





**MINUTES  
OF THE  
UPPER COLORADO RIVER COMMISSION MEETING**

**Held on June 5, 2006  
In Jackson, Wyoming**

**Called to Order**

Chairman L. Richard Bratton called the meeting of the Upper Colorado River Commission to order at 1:00 p.m. on Monday, June 5, 2006 in the Conference Room at the Antler Inn, Jackson, Wyoming.

**Attendance**

**Commissioners and Alternates:**

L. Richard Bratton, Chairman, Commissioner for the United States  
Scott M. Balcomb, Upper Colorado River Commissioner, Colorado  
Rod Kuharich, Alternate Commissioner, Colorado  
John D'Antonio, Upper Colorado River Commissioner, New Mexico  
Estevan Lopez, Alternate Commissioner, New Mexico  
Dennis L. Strong, Upper Colorado River Commissioner, Utah  
D. Larry Anderson, Alternate Commissioner, Utah  
Patrick T. Tyrrell, Upper Colorado River Commissioner, Wyoming  
Ben Bracken, Alternate Commissioner, Wyoming

**Commission Staff:**

Don A. Ostler, Executive Director and Secretary  
Jane Bird, Assistant to the Executive Director and General Counsel  
Teri K. Gomm, Administrative Secretary

**Legal Advisors:**

Carol D. Angel, Chairman, Legal Committee, Senior Assistant Attorney General, Denver, Colorado  
Tanya Trujillo, General Counsel, Interstate Stream Commission, Santa Fe, New Mexico  
Norman Johnson, Assistant Attorney General, Utah Attorney General's Office, Salt Lake City, Utah  
Erika Olsen, Assistant Attorney General, Wyoming Attorney General's Office, Cheyenne, Wyoming

**Engineering Advisors:**

John W. Shields, Chairman, Engineering Committee, Interstate Streams Engineer, Cheyenne, Wyoming  
D. Randy Seaholm, Colorado Water Conservation Board, Denver, Colorado  
John Whipple, Interstate Stream Commission, Santa Fe, New Mexico  
Robert King, Utah Division of Water Resources, Salt Lake City, Utah  
Dave Merritt, Colorado River Water Conservation District, Glenwood Springs, Colorado  
Eric Kuhn, Colorado River Water Conservation District, Glenwood Springs, Colorado

**Department of the Interior:**

Patrick Lambert, Director, U. S. Geological Survey, Utah Water Science Center, West Valley City  
Jim Otton, U. S. Geological Survey Energy Program, Denver, Colorado.  
Tom Hare, Environmental Specialist, Bureau of Land Management, Washington, D.C.

**U. S. Bureau of Reclamation:**

Rick Gold, Regional Director, Upper Colorado Region, Salt Lake City, Utah

**U. S. Fish and Wildlife Service:**

Angela Kantola, Assistant Director. Upper Colorado River Endangered Fish Recovery Program, Denver, Colorado

**Western Area Power Administration:**

Bradley Warren, Manager. Colorado River Storage Project (CRSP) Management Center, Salt Lake City. Utah

**Colorado River Basin Salinity Control Forum:**

Jack Barnett, Executive Director, Bountiful, Utah

**Navajo Nation Water Rights Commission**

Raymond Gilmore, Retired Chinle District Court Judge, New Mexico

Lena Fowler, New Mexico

Katie Gilbert. New Mexico

**Others Present:**

**Colorado:**

Barry Spear, Attorney, Southwestern Colorado Water Conservation District. Durango  
Ted Kowalski. Legal Rights Protection Specialist, Colorado Water Conservation Board, Denver  
John Cyran, Senior Assistant Attorney General. Denver

**New Mexico:**

Stephen Farris. Assistant Attorney General, Santa Fe  
Jim Dunlap, Chairman, Interstate Stream Commission, Farmington

**Wyoming:**

Jade Henderson, Wyoming State Engineer's Office, Cokeville  
Harry LaBonde, Wyoming State Engineer's Office, Cheyenne  
Ann Strand. Rock Springs

**Introductions:**

Chairman Bratton asked the audience to introduce themselves. Commissioner Tyrrell thanked Dan Budd, Alternate Commissioner from Wyoming, for taking part in planning the meeting and excused him because of his wife's ill health. Chairman Bratton introduced Dennis Strong at his first meeting as Commissioner from Utah and thanked Larry Anderson for his service as the previous Commissioner from Utah. Chairman Bratton noted that Mr. Anderson would continue his association with the Commission as Alternate Commissioner for Utah.

**Reading and Approval of the Minutes**

Commissioner Balcomb moved to approve the minutes of the Upper Colorado River Commission Meeting of December 14, 2005 held in Las Vegas, Nevada. Commissioner Tyrrell seconded the motion, and the minutes were unanimously approved without change.

**Filing Documents**

Mr. Ostler filed two copies of the agreement signed by all the Commissioners establishing the time and place of the meeting and two copies of the official notice of the meeting as required by Article IV(1) and (3) of the Commission By-Laws.

## Welcome and Update on Wyoming Water Issues -Commissioner Tyrrell

Commissioner Tyrrell welcomed the Commission to the State of Wyoming and discussed the major water resource issues facing Wyoming at this time. The following topics were included in Commissioner Tyrrell's report to the Commission:

1. Wyoming River Basins – Headwaters State
2. Coal Bed Methane Development Issues
  - a. State Engineer permits – water right for each well
  - b. Reservoir construction issues
  - c. Ground water use issues
  - d. Task Force created to look at water management concerns related to coal bed natural gas development
  - e. 20,000 well permits issued
3. North Platte River Basin Issues
  - a. Drought effects
  - b. Platte River Recovery Implementation Program
  - c. Basin water plan
4. Yellowstone River and Missouri Basin Issues
  - a. Coal bed development
  - b. Compact disagreements with Montana
5. Wind River/Big Horn Area
  - a. Tribal rights, Federal reserved rights and state rights
  - b. Adjudication process
6. Colorado River Drainage

### Report of the Chairman

Chairman Bratton indicated that Rod Kuharich had been appointed Chairman of the Budget Committee due to Mr. Anderson's retirement. He also indicated that Mr. Johnson was appointed Chairman of the Legal Committee. Chairman Bratton thanked Ms. Angel for her past service as chair of the Legal Committee.

### Report of the Secretary

Mr. Ostler's distributed a written summary of his report to each of the Commissioners to read in its entirety later (attached). Mr. Ostler's written report included the following topics:

Office modernization  
Update on Upper Basin hydrology  
Update on the Glen Canyon Dam Adaptive Management Process

### Agency Reports

- A. Rick Gold, Regional Director, Upper Colorado Region, U. S. Bureau of Reclamation (Reclamation), Salt Lake City, Utah gave an oral presentation and handed out a summary of his report (attached) addressing Upper Basin Reclamation activities. His report addressed the following subjects:
  1. Upper Colorado River Basin Hydrology
  2. Hydrologic Determination
  3. Navajo-Gallup Project
  4. Management Strategies for Lake Powell and Lake Mead Under Low Reservoir Conditions
  5. Animas La-Plata Project Status

6. Status of the Temperature Control Device at Glen Canyon Dam
7. Environmental Impact Statement (EIS) Status: Flaming Gorge Dam, Aspinall Unit, Navajo Reservoir
8. Management Changes
  - a. Ex-Governor of Idaho Dirk Kempthorne has been confirmed as Secretary of the Interior
  - b. Dave Sabo was selected as Assistant Regional Director for the Upper Colorado Region
  - c. Bill Rinne is acting Commissioner of Reclamation, since John Keys has retired

Question, Mr. Ostler: There's some controversy on where the funding will come from to pay for security measures since 9-11. Can you tell us anything about that?

Answer, Mr. Gold: Congress has written into an appropriations bill that those costs for what we would call guards and surveillance should not be reimbursable to customers. In this case, the place where we are primarily expending those costs is in CRSP facilities. Those costs would have been turned to the power customers for repayment. In two pieces of appropriation language, Congress has said that in one case, they are non-reimbursable and in the other case, only \$10 million of the costs are reimbursable. It is the administration's position that the costs of guards and surveillance should be reimbursable, which in Reclamation amounts to somewhere around \$20 million. In CSRP, that is about a \$2 million cost. That debate is still alive and well. I am sure that there will be attention paid to that issue in this appropriations cycle, and we wait to see what Congress directs.

Question, Mr. Shields: Elaborate on your very last statement under status of the temperature control device at Glen Canyon Dam relative to seeking a cost-share proposal for the project.

Answer, Mr. Gold: You'll see in virtually everything that the administration does that federal appropriations are getting tighter and tighter. I think that it is in everyone's best interest for us to look at: how can we leverage; are there opportunities to leverage; and are there people who are interested in providing a cost-share proposal on construction of the temperature control device. From my perspective, if we get such a proposal, it might assure that we move forward in a faster manner than if we rely on this as solely a federal investment in these federal budgetary times.

- B. Bradley Warren, Manager, CRSP Management Office, Western Area Power Administration (Western), Salt Lake City, Utah presented an oral report and provided a written copy (attached) on behalf of Western, highlighting the following topics:
1. Drought and Hydro Generation
  2. Energy Deliveries, Basin Fund and Purchased Power
    - a. Twenty-five percent higher purchase prices this year compared to last year
    - b. Barring significant market changes, Western will end Fiscal Year (FY) 2006 with \$48 million in the Basin Fund
  3. Reclamation's Shortage Criteria Process
  4. Experimental Flows at Glen Canyon Dam, FY 2006 and Beyond
  5. Flaming Gorge
    - a. Western proposes altering the release pattern in winter months
  6. Aspinall EIS

Question, Commissioner Tyrrell: You have some non-flow actions that are being considered in the Glen Canyon process. What are some of those non-flow actions?

Answer, Mr. Warren: Some of those non-flow actions include the issue of the temperature control device, the issue of grow-out ponds, refugia, translocation of fish and those types of actions that are non-flow based.

- C. Jack Barnett, Executive Director, Colorado River Salinity Control Forum (Forum), Bountiful, Utah distributed a 2006 Funding Sources chart (attached) to the Commission and audience and gave an oral report addressing the following topics:
1. Election of Forum Officers
  2. Funding Sources
  3. Significant Contributions
    - a. Eden Lateral
    - b. Huntington/Cleveland area in Utah
  4. Reclamation has completed its RFP Process
  5. Completed Project in Ferron, Utah.
  6. Refining Reclamation's Model

- a. Better understanding of salt contributions
- b. Science team

D. Angela Kantola, U.S. Fish and Wildlife Service (FWS), Upper Colorado River Endangered Fish Recovery Program (Recovery Program), gave an oral presentation addressing the following topics:

- 1. Changes in FWS Personnel
- 2. Endangered Species Act (ESA) Compliance and Water Projects
- 3. Instream Flow Protection
  - a. Utah
  - b. Colorado
- 4. Habitat Restoration
- 6. Non-native Fish Management
- 7. Endangered Fish Stocking
- 8. Population Status
- 9. On the Horizon
  - a. FWS "Sufficient Progress" Review

Question, Mr. Kuharich: I have a question that relates to wetland rehabilitation. Is eradication of Tamarisk part of this?

Answer, Ms. Kantola: No that has not been a direct part of what we've been working on, although we have been talking with the people who have been working on Tamarisk.

Question, Chairman Bratton: It would seem from the report that with one exception, there is progress and the fish are reproducing across the board.

Answer, Ms. Kantola: Right, except in the Green River for the Colorado Pikeminnow. We have also seen some decline of some of the Humpback Chub population. Again, it fluctuates, so the agencies are not at a point where they can say what those numbers mean. Therefore, we just have to continue to do the population estimates on a regular basis, and we will have to see what that means. Populations do fluctuate; we know that. I do have a written report that I have sent to Don Ostler. I apologize I do not have it here.

E. Tom Hare, Environmental Specialist, Bureau of Land Management (BLM), Washington, D.C and Jim Otton, U. S. Geological Survey (USGS) Energy Program, Denver, Colorado gave a slide presentation and oral report on potential energy development in the Upper Colorado River Basin.

- 1. Statistics on BLM Mineral Rights
- 2. Projected Applications for Permits to Drill
  - a. Two Issues Related to Drilling
    - 1. Water depletion
    - 2. Increase in salinity
  - b. The BLM Management Authority
  - c. Permits to drill
  - d. Surface disturbance estimates
- 3. Best Management Practices
  - a. Reducing footprints
  - b. Interim reclamation of roads
  - c. Well reclaiming
  - d. Map drilling
- 4. Energy Development and Produced Waters in the Upper Colorado River Basin
- 5. Conventional and Unconventional Oil and Gas Production
  - a. Continuous gas production
    - 1. Opportunity
    - 2. Contaminant
- 6. Water Use and Production in the Oil Industry
  - a. Differences in water production history
  - b. How much water is being generated by oil and gas operations
  - c. What we know about the quality of this water
  - d. What we can infer from that quality
  - e. What we can project about future energy and water production
  - f. Release of treated or untreated produced waters to the surface

1. Components
2. Coal bed methane produced waters are highly variable
3. What happens when the water is released to the near-surface environment
7. Future Energy/Water Development in the Upper Colorado River Energy Basin
  - a. Oil shale
8. Conclusion. Produced water volumes are presently relatively small throughout the Upper Colorado River Energy Basin compared to natural surface flows. The vast majority of these waters are presently reinjected, and perhaps some percentage of these waters can be cleaned up for beneficial use. Companies would have to evaluate the economics of risks and regulators and land managers. Water managers, I must add, would have to carefully evaluate proposals. Coal bed methane waters in any given basin are generally cleaner than produced waters from other sources in the same basin and therefore there are typically less dollars involved in upper waters. However, many precautions must be taken to conduct thorough chemical analyses to avoid unforeseen problems, establish the appropriateness of the proposed use if any and the cleanup technologies necessary to meet that proposed use.

Question, Chairman Bratton: Is any pollution caused by removal of the methane gas, or is that just the quality of water that's in the ground?

Answer, Mr. Hare: It's the quality of water that's in the ground. Typically there are some dissolved organics and/or hydrocarbons that are in the water that is associated with the gas that end up going in the water as the gas is released.

Question, Chairman Bratton: I saw a report somewhere that showed a 150,000 acre feet per year estimated for oil shale.

Answer, Mr. Hare: The 150,000 acre feet per year would be above-ground retorting. I think that's the number where you might have to bring it to the ground surface. That's a process that consumes tremendous quantities of water. It would be different if it's insitu retorting, but we don't really have a good handle on what insitu retorting it would generate. We don't know whether it would generate water that could be potentially used or would consume water. We do not have good numbers on that.

Chairman Bratton thanked all those who provided agency reports and adjourned for a 10-minute break, to reconvene at 3:30 p.m.

#### Resolution to Support the Hydrologic Determination

Commissioner D'Antonio thanked everyone who worked on the Hydrologic Determination and stated that an agreement had been reached. New Mexico and Colorado agreed to the form of a letter responding to issues raised by Colorado and the Southwestern Water Conservation District. Commissioner D'Antonio will finalize a letter and send it to Commissioner Balcomb and Mr. Kuharich to reflect the agreed-upon language. Commissioner D'Antonio called on Alternate Commissioner Lopez to give a recap of the work meeting presentation that morning on the Hydrologic Determination.

ALT COMM. LOPEZ: Thank you Mr. Chairman, Commissioners. I'm simply going to do a brief summary of why it is that we're requesting the Hydrologic Determination and kind of what some of the conclusions are.

New Mexico has proposed a Navajo Gallup Water Supply Project to provide needed renewable water supply from the San Juan River for municipal and domestic uses, on both Indian and non-Indian communities located in New Mexico. Three governmental entities are the primary beneficiaries of this project, these are: the Navajo Nation, the Jicarilla Apache Nation and the City of Gallup. Uses under the project by the Jicarilla Apache Nation and the City of Gallup would be supplied through the Jicarilla Apache Nation's Navajo Reservoir water supply contract approved by congress in 1992. Navajo Nation water uses in New Mexico under the project would be supplied through a proposed new Navajo reservoir water supply contract that's a component of the Navajo Nation water rights settlement agreement signed by the state of New Mexico and the Navajo Nation on April 19, 2005. The new contract would also supersede the existing Navajo Reservoir water supply contract for the Navajo Indian Irrigation Project, known as NIIP.

The Upper Colorado River Commission on June 19, 2003 resolved the states of the Upper Division consent to the Navajo Gallup Water Supply Project provided that the water diverted by the project for the use in New Mexico shall be a part of the consumptive use apportionment made by the State of New Mexico under Article 3a of the Upper Colorado River Basin Compact. The maximum amount of consumptive use through the project by the Navajo Nation and New Mexico permitted in any one year would be 20,780 acre feet. Public Law 87-483 requires that all future long-term contracts shall be entered into for the delivery of water stored in Navajo Reservoir or any other waters of the San Juan River and its tributaries only if the Secretary of Interior has determined by hydrologic investigation that sufficient water to fulfill such contract is reasonably likely

to be available for use in the state of New Mexico under the allocations made by Article 3 and 14 of the Upper Basin Compact, submitted such determination to Congress and Congress has approved the contract. The last such determination approved by the Secretary of Interior was in 1988.

The Bureau of Reclamation has prepared a draft Hydrologic Determination for the purpose of contracting for water from the Navajo Reservoir water supply for Navajo Nation uses in New Mexico under the Navajo-Gallup Water Supply Project. The Upper Colorado River Commission's Engineering Committee has reviewed the content, both of the draft Hydrologic Determination Report and of the Proposed Resolution drafted for the Commission's consideration that would support the findings of the Determination, and their comments have been addressed. The Bureau of Reclamation agreed that it would append the resolution if adopted to the report.

New Mexico provided to the Bureau of Reclamation a preliminary revised schedule of anticipated depletions through 2060 from the Upper Basin in New Mexico for use in that investigation. It includes irrigation depletions calculated using the modified Blaney-Criddle method so that the demands and supply for the hydrologic investigation are evaluated using consistent methodology. The draft Hydrologic Determination considers and uses many of the same basic assumptions as the 1988 Hydrologic Determination, without relying on a critical Compact determination regarding obligations of the Upper Basin under Article III(c) of the Colorado River Compact. The draft determination concludes that depletions by the Basin States from the Upper Colorado River Basin can be reasonably allowed to rise to an annual average of 5.76 million acre feet per year exclusive of Colorado River Storage Project Reservoir evaporation from Lake Powell, Flaming Gorge Reservoir and the Aspinall Unit, and that sufficient water is reasonably likely to be available from the Navajo Reservoir water supply through at least 2060 to fulfill the contract that is proposed by the settlement agreement to provide water for the Navajo Nation's uses in New Mexico under both the Navajo-Gallup Water Supply Project and the Navajo Indian Irrigation Project. These conclusions are reached under the same shortage criteria upon which the allowable Upper Basin yield was determined in the 1988 Hydrologic Determination.

Under the conditions assumed in the draft Hydrologic Determination, the shared CRSP evaporation averages about 250,000 acre feet per year for the 1953 through 1977 period and increases to about 500,000 acre feet per year over the entire 1906 to 2000 period of record. Using the analysis, where the Upper Basin's uses by the States averaging 5.76 million acre feet per year, the total Upper Basin depletion including both Upper Basin uses and CRSP Reservoir evaporation would average about 6.0 million acre feet per year during the most critical reservoir draw-down period from 1953 to 1977. This result is consistent with the total Upper Basin depletion of 6.0 million acre feet per year determined to be available for the same period in the 1988 Hydrologic Determination. The result of the current Draft Hydrologic Determination essentially is to refine the 1988 Hydrologic Determination by deducting the critical period evaporation rather than the long-term average evaporation. This refinement makes more of the critical yield available for use by the states.

The Draft Hydrologic Determination will provide for the continuation of Upper Basin water development, provide a mechanism for resolving certain long-standing disputes within the Upper Basin as to the procedures for accounting and consumptive uses in the Basin and assist in moving forward the Navajo Nation Water Rights Settlement. In addition, under the settlement the Navajo Nation would agree that its rights to use of water in the San Juan River Basin in New Mexico and its exercise of these rights are subject to both the Upper Colorado River Basin Compact and New Mexico State water law.

New Mexico would appreciate your continued support of its right to develop its compact allocation and more specifically your support of the Hydrologic Determination update through approval of the proposed Upper Colorado River Commission Resolution on this subject. I believe that resolution has been passed out to the Commissioners.

Raymond Gilmore, Retired Chinle District Court Judge, New Mexico urged support of the Navajo-Gallup Project. Highlights of his comments were as follows:

1. Tribulations Facing New Mexico
  - a. Changes Occurred in Helping to Solve the Problem
    1. 1990's the San Juan River Recovery Implementation Program
    2. Animas-La Plata Project was included in the environmental baseline
    3. Ute Settlement Act implemented
  - b. Navajo Nation Working Hard to Make the Recovery Program a Success
    1. Fish bypass at the PNM Diversion Structure
    2. Improved diversion structure at the Hogback Irrigation Project
    3. Fish ponds at NIIP and the elimination of the Cudei Diversion Structure
    4. PNM acquires water for the San Juan Generating Station
    5. EIS completed for reoperation of Navajo Dam

6. San Juan River shortage
7. Agreement signed between Navajo Nation and New Mexico
- c. Navajo Nation Asks Commission to Support New Mexico's Proposal for Hydrologic Determination

Commissioner D'Antonio introduced Commissioner Balcomb for comments.

Commissioner Balcomb: Colorado recognizes the critical importance of the Navajo-Gallup Project as outlined in the last few minutes. I personally have had some reluctance to approve the Hydrologic Determination. Not because I don't recognize the need, but because I think that the Commission and perhaps the member States are deficient in not having an adequate planning tool for the future.

This is the third or fourth time the Commission has updated and increased the Hydrologic Determination, and it's always been done--as my understanding is -- on a more or less ad hoc basis. I believe that--especially in New Mexico, but elsewhere in the basin -- the States need to be able to start planning for the full development of the Upper Basin and what that really means.

To that end, I believe that the four States have reached an understanding today that we are going to pursue the Commission's own hydrologic determination and answer such questions as how much development the Upper Basin can provide under what conditions. By that I mean how much risk of shortage each of us is willing to undertake. That should give future Commissions a tool to analyze future hydrologic determination issues and to determine exactly how far it's wise to go.

If that is the understanding of the States, then I'm prepared to support the motion, as well as -- I mean I think there is a specific understanding between New Mexico and Colorado and the Southwestern District that Barry Spear from Southwestern would like to describe.

Chairman Bratton: Just a second, Barry. Do each of the States agree to that statement that Scott made?

Commissioner Tyrrell: Mr. Chairman, I would agree with it in principle. I think it's particularly valuable considering the Basin States work that is ongoing and the fact that if we don't take a stand on what our development future looks like, one of them will do it for us --

Chairman Bratton: That's right.

Commissioner Tyrrell: -- and we've seen some -- very magnanimous of them, I might offer -- but not necessarily an answer that we would agree with. So, I would confirm my understanding of Commissioner Balcomb's request, which is that we start putting some engineering thought into what the future looks like in that regard.

Chairman Bratton: Okay. John?

Commissioner D'Antonio: Yes, I concur with Commissioner Balcomb.

Chairman Bratton: Dennis?

Commissioner Strong: I concur also.

Chairman Bratton: Okay. Barry? I wanted to get that on the record.

Mr. Spear: Thank you, Commission. My name is Barry Spear and I'm the General Counsel for Southwestern Water Conservation District. When this process started for us, we asked New Mexico for a number of assurances to protect the water users in the southern part of the State of Colorado in exchange for our recommendation to the State of Colorado to support the draft HD. We have not received those assurances, and we feel that --we are disappointed in that. However, we have agreed to the language of the letter which Mr. D'Antonio mentioned earlier. We are looking forward to the good-faith compliance of the terms of that letter from New Mexico and working with New Mexico in the future.

I also would like to say that the Southwestern District has had a long history of supporting Indian tribes in their pursuit of water rights and establishing their water rights. We have supported the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, and we have supported the Navajo Nation and the Jicarilla. We continue with that support. We support the Navajo Settlement Agreement. We support the Navajo-Gallup Pipeline. But what we would like to do is, we do reserve our right to lobby our legislators to add language to legislation which would protect water users in Southwestern Colorado.



With that, I do have the copy of the letter that we have worked on language with New Mexico. I would like to give it to Mr. Ostler to place into the record until another formal letter can be substituted. Thank you.

CHAIRMAN BRATTON: Okay. It's my understanding you will not read it into the record, but you'll submit it into the record?

Mr. Spear: That's correct.

Chairman Bratton: -- and you'll make the revisions that are now marked in pen. Is that correct?

Mr. Spear: Mr. D'Antonio's office will do that. Yes, sir.

Chairman Bratton: Okay.

Mr. Spear: Thank you.

Chairman Bratton: John, as far as the State of New Mexico, you agree that you will submit that letter.

Commissioner D'Antonio: Yes, Mr. Chairman. I would move approval of the Resolution, subject to this language, which we will be sending in the next couple of days to the State of Colorado and to Southwestern Water Conservation District and to Commissioner Balcomb.

Commissioner Tyrrell: Second.

Chairman Bratton: It has been moved and seconded. Further discussion? Scott, do you have anything further?

Commissioner Balcomb: No, Mr. Chairman. Call the question.

Chairman Bratton: Okay. Before I do it, I would like to second what Dennis Strong told me on the telephone on Friday when we were struggling with this, that he wanted a consensus opinion on that. Hopefully, we do have that. I think it's extremely important for the reason I gave this morning--that we hang together--because there are bigger issues than this on down the road.

So, unless there's any further discussion, I'll call for the question. All in favor? (Aye.) Opposed? (No response.) It's unanimous.

#### Report of the Treasurer

Mr. Ostler presented the Report of the Treasurer to the Commission. Commissioner Balcomb moved to dispense with reading the report. The motion was seconded by Commissioner Tyrrell and unanimously approved as is.

#### Election of Vice Chairman of the Commission

Chairman Bratton placed election of a new Vice Chairman to replace D. Larry Anderson before the Commission. Commissioner D'Antonio nominated Commissioner Tyrrell. Commissioner Balcomb made the motion to approve the nomination, and all Commissioners approved Commissioner Tyrrell's nomination and unanimously elected him Vice Chairman.

#### Approval of the 2007-2008 Budget

Chairman Bratton asked for approval of the 2007-2008 budget that was presented to the Commissioners. Commissioner Balcomb moved for approval, and Commissioner D'Antonio seconded the motion. All Commissioners were in favor.

#### Engineering Committee Report – John Shields, Chairman

Mr. Shields directed the attention of the Commissioners to the draft work plan for the Engineering Committee provided in the Commission packet. The Commissioners noted that Commissioner Balcomb's direction to prepare an Upper Basin plan for full development of the basin as it pertained to the discussions on the Hydrologic Determination should be added to the Engineering Committee work plan.

### Legal Committee Report – Norman Johnson, Chairman

Mr. Johnson reported on the proposed Legal Committee work plan provided as part of the Commission packet.

Commissioner Balcomb made a motion that the Commission makes its records available to the four Commission states for such uses and copying as those states might wish. Commissioner Tyrrell seconded the motion, and it was unanimously adopted

### Litigation Issues

Ms. Bird, the Commission General Counsel, provided an update on the All American Canal lawsuit.

Chairman Bratton asked that the Commission be kept informed of further developments.

### Next Meeting

The Upper Colorado River Commission agreed that its next meeting would be in Las Vegas, Nevada on December 13, 2006 in conjunction with the Colorado River Water Users Association meeting.

### Attachments

Report of the Secretary  
U.S. Bureau of Reclamation, Rick Gold's Agency Report  
Western Area Power Administration, Bradley Warren's Report  
Colorado River Salinity Control Forum, Jack Barnett's Report  
U.S. Fish and Wildlife Service, Angela Kantola's Report  
Bureau of Land Management, Washington, D.C., Tom Hare and Jim Otton's Report  
Formal Letter from New Mexico  
Signed Resolution  
Report of the Treasurer  
2007-2008 Budget  
Engineering Committee Work Plan  
Legal Committee Work Plan  
New Mexico's Response to Colorado's May 24, 2006 letter to John D'Antonio, Jr.

### Adjournment

Chairman Bratton adjourned the Commission meeting at 4:15 p.m.

### ACTIONS TAKEN

By motion duly made and unanimously passed, the Commission took the following actions:

1. Approved the Minutes of the Meeting of December 14, 2005. (Movant, Commissioner Balcomb; second, Commissioner D'Antonio.)
2. Accepted the Report of the Treasurer. (Movant, Commissioner Balcomb; second, Commissioner Tyrrell.)
3. Adopted a Resolution to support the May 2006 Draft Hydrologic Determination prepared by the Bureau of Reclamation and support a determination by the Secretary of Interior that water is reasonably likely to be available to fulfill the settlement contract for Navajo Nation uses in New Mexico from Navajo Reservoir. (Movant, Commissioner D'Antonio; second, Commissioner Tyrrell.)
4. Voted and approved the nomination of a Vice Chair for the Commission. (Commissioner D'Antonio nominated Commissioner Tyrrell; all Commissioners were in favor.)
5. Motion by Commissioner Balcomb for the Commission to make its records available to the four Commission states for such uses and copying as those states might wish. (Movant Commissioner Balcomb. Second Commissioner Tyrrell and unanimously passed.)



UCRC Engineering Committee  
September 22, 2006

The following is a short summary of our discussions:

1. LB Hydrologic Determination Letters
  - a. The HD is totally an UB issue, not a LB issue.
  - b. The LB certainly does not inform the UB of all its actions until after the fact, if at all; witness the ICS demo programs.
  - c. The UB is fully aware of the potential risks and is willing to accept those risks.
  - d. We all generally agreed that AZ was trying to undo or mitigate as much as they could of the effects of Title VI of the 1968 CR Basin Project Act.
  - e. We disagree with the LB's tortured logic in their letter to Interior.
    - i. We were of the opinion that the UCRC's resolution concerning the use of water from the UB to the LB was sound as long as those uses are charged to the apportionment of the UB state in which they are used. We believe the concern expressed was whether or not the use was being moved from one state to another. The underlying issue is opposition to development in general and/or leverage in mitigating the impacts of Title VI of the 1968 Act.
    - ii. The Committee believed the adjustments to the Natural Flow data base used for the HD were sound and had USBR concurrence.
    - iii. All the positions of the LB under 'Upper Basin's Water Delivery Obligation to the Lower Basin' in short were deemed to be without merit. I would add that they try to portray the decision in AZ v CA as modifying the Compact.
    - iv. With respect to transit losses for the delivery of UB water for the Mexican Treaty, the UB should only accept responsibility for the incremental difference in channel losses only (negligible loss when considering a prorated share of the total river flow losses – 8% or less). Reservoir evaporation should not be included. An accounting of deficiencies should be required as part of any agreement on this issue.
    - v. Side inflows reaching the mainstem are clearly available to offset the channel losses and Mexican Treaty deliveries regardless of the differing views on tributary uses in excess of the 1.0 MAF. Average tributary inflow is estimated to be 1.3 MAF (This was the value that USBR, we all believe, gave us during the development of the 2006 AOP and during our 7-State briefings). If they want to challenge us, then they will have to account for side inflows.
    - vi. It was appropriate to use all UB storage because it is used to support the development of UB yield and deliver 8.23 MAF. It is not just to support delivery to the LB as they claim.

- vii. We would note that the LB did not disagree with the critical period of record or the use of the critical period evaporation. Since they apparently do not disagree with these changes, one could rely on the 1988 determination with these changes if absolutely necessary. The downside to this is that it is inconsistent with the way future depletion and depletion projections have been done historically, which has always been on an average annual basis.
  - viii. An alternative of just giving NM an additional 20 KAF was mentioned and deemed unacceptable.
  - ix. The mass balance approach was deemed to be adequate and the need to use the full CDSS unnecessary as we are looking for a determination that water is "reasonably likely" to be available. I would note however that the CDSS model was relatively new and one could argue still in its development period at the time of the 1988 HD.
  - f. NM will be discussing how to respond to Kyl and Interior following the 9/28 meeting with USBR and the LB with Sen. Domenici and Sen. Bingaman.
  - g. It was suggested that AZ may be holding out to force a comprehensive settlement with the Navajo's of all their federal reserved water right claims.
- Conclusion:** Recommend adding this to the UB 9/27 meeting and possibly to the 9/28 7-State meeting. We need to know with certainty where USBR stands and how they will respond to the LB and Sen. Kyl.
2. UCRC Future Development Planning Tool: Pursuant to the UCRC charge in Jackson, the Committee discussed how to proceed. The Engineering Committee felt the best way to proceed was to assess the increased risk of shortages associated with the development of water supplies in excess of the HD. It was suggested that the same model used to develop the current HD could be used to assess the risk of shortages. We could also vary the assumptions used. The Committee strongly believed that it did not want to be making HD's, but rather just identify the risk of shortage at different levels of development and under different assumptions (graphs showing use and shortage). The Committee will develop a proposal for the UCRC to discuss in December.
  3. The Engineering Committee agreed that we need to update the UB future depletion schedule. The timeline for the accomplishment of this effort from Colorado's perspective is to send a draft depletion schedule to UCRC by December 1, 2006 and a final by February 1, 2007. New Mexico has theirs' done, and Utah is close to being able to update their schedule. Wyoming indicated they will be working toward these dates. Colorado's specific steps are as follows:
    - a. October 15, send to Colorado water users for comment
    - b. November Board meeting present the revised schedule to the CWCB for review and comment.
    - c. December 1 send draft to UCRC for informational purposes.
    - d. January Board seek approval of CWCB

- e. February 1, assuming CWCB approval, send final to UCRC for formal consideration and adoption at their next meeting.
  - f. Following UCRC adoption, transmit new future depletion schedule to USBR, WAPA and others as appropriate.
  - g. It was suggested that the information concerning state apportionments and CRSP evaporation at the bottom of the current table be removed in light of the LB positions.
  - h. A discussion was had as to whether or not the schedule should reflect the full development of the water supplies considered to be available under the latest HD. The decision was left to each state as to how they want to proceed. The schedules should be reviewed to make sure adequate water for oil shale development is identified.
4. The reconciliation of differences between the UCRC Natural Flow database and the USBR Natural Flow database were discussed. The differences in any given year are generally not that significant (average of 15.06 maf vs. 14.85 maf) for the most part. however, over time the accumulated difference becomes very significant (approximately 18 MAF over the last 90-years). It was agreed that a meeting with USBR was appropriate to determine the reasons for the differences. Once the reasons for the difference are understood, a policy discussion is needed to determine whether or not the databases should be adjusted. Utah was not overly concerned by differences in the data; different processes provide a good check. Ostler is meeting with USBR in Salt Lake City on October 4<sup>th</sup> and he will raise this issue with the USBR. The Commission's process is very straight forward dealing with stream gage info, trans-basin diversions and change in storage for most all reservoirs and estimated consumptive uses. The BOR process back calculates natural flow using CRSS models and does not contain all the raw data.
5. Development of Curtailment Policy, issues that need to be addressed.
- a. Depletions that occurred in the previous year must be identified.
  - b. Triggers need to be developed to identify when a curtailment of UB uses needs to occur. April 1 of the year following a drop below the 75 MAF in 10 was one idea suggested as a starting point. Another option was to use the April 1 forecast to project whether the 10 year running aggregate flow at Lee Ferry would fall below 75maf to institute curtailment in that water year.
  - c. The idea of an inadvertent under delivery concept was mentioned. It seems that whichever method is used, it will be difficult to hit exactly the target flow at Lee Ferry. In that regard, there likely would be a need for successive year adjustments for too high or too low of a delivery ( a wiggle in concept).
  - d. We need a determination of any deficiencies in deliveries to Mexico, without such there should be no recognition of any request for curtailment.
  - e. What is the appropriate date for determining whether or not water rights are senior to the Compact and therefore not subject to curtailment? Is it 1922, 1929 or even perhaps 1944 (date that AZ actually signed)?
  - f. How should the curtailment be distributed? The Upper Colorado River Compact states that it should be based on the previous years CU, if that can

- not be accomplished in a timely manner, what other options might the UCRC find acceptable?
- g. How should transit losses to Lee Ferry be handled to assure wet water arrives at Lee Ferry? What happens with curtailed water once it reaches a stateline in the UB? How should futile calls be addressed?
  - h. What does "cause deliveries at Lee Ferry to fall below 75-MAF in 10" really mean?
6. USGS proposal to improve measurement of inflows into Lake Powell: It was agreed that the project would provide better data that would be helpful in determining transit losses to Lake Powell. The project will likely not change the manner in which USBR operates Lake Powell. The inaccuracies in flow measurement are dwarfed by the big assumptions made for bank storage at Powell. The proposal would advance our understanding of the mass balance for Lake Powell, but could also create questions about Powell operations given any differences in estimated inflows. On whole, the Committee felt the proposal deserved UCRC support.
  7. We discussed the fact that Jerry Zimmerman's office had requested data on Upper Basin Pre\Post Compact water rights.. There was agreement that there were several questions that needed to be addressed before such a value could be calculated. The UB states still have some significant work to do on this issue. With our CDSS Colorado is in a good position to respond in fairly short order. Utah indicated that it might be several years before the state engineer can go through his data base and eliminated the many duplicate water rights so this can be calculated. It was agreed that no Upper Basin State will provide this information to the LB until we have had a chance to compile the data for ourselves....This is a number that we need to develop for our own uses to assist us in understanding of curtailment capabilities. We will need to revisit this again to see if a reasonable deadline can be established to obtain the data.
  8. The Mexican Treaty position paper presented by Tim Henly following the last 7-state technical committee meeting was briefly discussed, but no consensus was reached on a recommendation to the UCRC given the shortness of time remaining. Some of the questions raised included: 1)Does the UB get to reduce releases if Mexico is shorted; 2)Do UB shortages count in the computation of reductions to Mexico; 3)How does the accounting of shortages actually work; is it done by IBWC or USBR; 4)What is the correct amount to short Mexico; 5)Does Davis Dam have any function in shortage operations; 6)What are the impacts to Salinity. It was agreed that the State Department needs to work closely with USBR and the Basin States and not put out a Minute Order in rapid fashion as happened when Minute 307 was negotiated.
  9. The UCRC scanning project was briefly discussed. It was discussed that none of the states except Colorado have an electronic file system to support the use of scanned images at the present time. Therefore, the importance of an electronic file management platform is likely a prerequisite to financial participation in a scanning project. The Commission staff would also be dependent upon a file management

UCRC Engineering Committee

September 22, 2006

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system to utilize the scanned images of files so they could be searched. A short demo of the functionality of Concordance (now used by Colorado) was provided, which improved everyone's understanding and helped advance the discussions on how to proceed. Concordance will be added to the list of file management software for evaluation. Simultaneous efforts are going forward to identify scanning contractors and costs.


Information on the Engineering Committee discussions will be provided to the UCRC during the course of the meeting agenda on the 27<sup>th</sup>.





Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

**Whipple, John J., OSE**

**From:** Rege Leach [RLeach@uc.usbr.gov] **Sent:** Tue 11/7/2006 3:47 PM  
**To:** David\_Campbell@fws.gov; Whipple, John J., OSE; Carol DeAngelis; Dave Trueman; Pat Schumacher; Rick Gold; Susan Moyer  
**Cc:**  
**Subject:** Proposed wording changes to the Hydro-Determination (HD) 11-07-2006  
**Attachments:**  [HD changes 10-31-06.pdf\(170KB\)](#)

Hello All,

Over the past week we have been addressing concerns over potentially miss-leading wording in the HD relating to the Biological Assessment (BA) for the Navajo Gallup Water Supply Project. Dave Campbell with the Fish and Wildlife Service and Sue Unshler with the Solicitors Office feel there is some conflicting wording between the HD and BA. The issue relates to the HD inferring the BA implies a full depletion of NGWSP and Navajo Indian Irrigation Project would be acceptable while meeting the SJRIP flow recommendations under full river basin water development. Which is not the case. After looking at the wording concerns and discussing potential changes with John Whipple with the NM. Interstate Stream Commission and Dave Trueman we came up with suggested deletions and additions to the HD that address the concerns and are agreeable to all parties involved. That wording strike outs and additions are shown hand written on the attached copy of the HD. With these changes the FWS will continue to prepare the Draft Biological Opinion on the Navajo-Gallup Water Supply Project. Dave Trueman will determine the process and have the changes made to the HD. If there are questions please let me know so we can get them addressed.

Regards,

F

OSE-1503



**Whipple, John J., OSE**

**m:** Don Ostler [dostler@uc.usbr.gov] Sent: Mon 12/11/2006 12:55 PM  
 James.Prairie@colorado.edu; James Prairie; Tom Ryan

**Cc:** scott@balcombgreen.com; landerson@barnettwater.com; rbratton@brattonhill.com; dmerritt@crwcd.org; ekuhn@crwcd.org; Lopez, Estevan, OSE; Dantonio, John, OSE; Whipple, John J., OSE; jshiel@seo.wyo.gov; ptyrre@seo.wyo.gov; hal.simpson@state.co.us; Randy.Seaholm@state.co.us; rod.kuharich@state.co.us; Castillo, Candise, OSE; Brown, Jayne R., OSE; Andrew GILMORE; Don Ostler; Dave Trueman; dennisstrong@utah.gov; jerryolds@utah.gov; robertking@utah.gov

**Subject:** Natural Flow Computation

**Attachments:**

Jim, Tom and others:

This is a belated follow up from our meeting where we discussed differences in the Bureau's and the Upper Colorado River Commission's natural flow computations. As you may recall, the Bureau computes an average natural flow at Lee Ferry of 15.06 MAF and the UCRC computes an average natural flow of 14.85 MAF.....I appreciated the discussion and insight you all shared with me. Even without any further adjustment or coordination, our two computations are within 1.4% of each other. I think this is quite good agreement since the two systems have been totally independent. It may not be worth any of us spending too much time in looking for adjustments.

However, I have finally had some time to look into just a few things and wanted to pass them on for what it may be worth as follows:

1. The initial observation that the Bureau had up to 200KAF more transmountain diversions than UCRC does not appear to be the case. I think we have concluded that difference was including some transmountain diversions that are still within the Colorado River Basin. I believe the Bureaus computation takes this properly into account as does the UCRC method. In just doing a single year (2001) spot check comparison of transmountain diversions after the above adjustment is made, I find the Bureau system has about 48 KAF more such diversions than UCRC.
2. Upon checking further to identify the reasons for this difference it appears that most of the difference is associated with the numbers we both have for the CUP Bonneville Unit. I compared the two data sets from 1996 to 2005 as a period I could evaluate. The average annual Bureau value was 45,085 ac-ft and the average UCRC value was 19,791 ac-ft. I asked the CUP folks who provide us with our numbers to see if they could verify the correct information. It appears the Bureau data comes from a USGS gaging station. The UCRC data comes from a flow meter right at the syar tunnel. We believe the USGS gage over reports the diversion by including all the receiving basin runoff above the gage in addition to the trans. mtn diversion flow. The CUP folks believe their information is correct and that their meter is much more precise than the USGS gage. Adjustment of data for this one station alone appears to amount to about half of the difference between our two trans mountain diversion totals. In addition, the Bureau includes about 10 very small diversions that the UCRC does not have. These total only about 10,000 ac-ft. These two adjustments will bring us close together. I suspect that the remaining difference may also be associated with the difference between using USGS gage data rather than project operating data, but we are down into the decimal dust at this point.
3. It is clear that there are a few years of updating consumptive uses in the UCRC system that are necessary and this will be done. I don't expect this to make a large difference. I think with these few changes

OSE-1504

to both systems they will be even closer in average natural flow..

Even though the two data bases are now very close and can be made even more close with these slight changes, we will still not have the exact same number....Any difference gets more significant because it is compounded or additive over the critical period of hydrology when used to compute 602a storage or the hydrologic determination. That appears to be something we will have to live with and it may become an issue in the future if there is a challenge to either of these computations...

I would still like to spend some additional time researching differences between the two systems for the critical drought period when I get the time...

Thanks for arranging the meeting and for the excellent discussion of policy...

Don Ostler  
Upper Colorado River Commission

I just wanted to report back for what it is worth....Thank you all for taking time to share information and discuss this...

Don Ostler  
Upper Colorado River Commission

OSE-1505



**Whipple, John J., OSE**

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**From:** Don Ostler [dostler@uc.usbr.gov] **Sent:** Fri 1/19/2007 11:55 AM  
scott@balcombgreen.com; landerson@barnettwater.com; rbratton@brattonhill.com; ptyrre@seo.wyo.gov; Rod.Kuharich@state.co.us; Dantonio, John, OSE; Don Ostler; dennisstrong@utah.gov

**Cc:** sfarris@ago.state.nm.us; JLochhead@BHF-Law.com; dmerritt@crwcd.org; ekuhn@crwcd.org; djensen@pbiutah.com; jshiel@seo.wyo.gov; carol.angel@state.co.us; Hal.Simpson@state.co.us; john.cyrano@state.co.us; Randy.Seaholm@state.co.us; ted.kowalski@state.co.us; Lopez, Estevan, OSE; Brown, Jayne R., OSE; Whipple, John J., OSE; Trujillo, Tanya, OSE; pmicha@state.wy.us; Jane Bird; jerryolds@utah.gov; normanjohnson@utah.gov; robertking@utah.gov

**Subject:** Hydrologic Determination

**Attachments:**

**Commissioners:**

By way of update....In a discussion I had with Dave Trueman of the Bureau staff he said that California and Nevada had both been contacted about the need for any further consultation on the draft hydrologic determination of May 2006. Both states expressed no need for any further consultation. We still have not heard what Arizona's response was yet.

Mark Limbaugh indicated that he would forward the hydrologic determination to the Secretary as soon as consultation is finished..If I hear anything more on Arizona, I will let you know..

Don Ostler  
Upper Colorado River Commission

OSE-1506





3/8/07

USBR mtg. w/ AZ on HD - from Ostler

discussed all points in LB letter

AZ w/ some support from Zimmerman  
holding to points

AZ/CA would go by USBR decisions  
except:

1) want language in HD that LB  
disagrees w/ and objects to 8.25 mat  
LB delivery because it does not  
consider delivery losses on 0.75 mat  
Treaty release to border

2) want to preserve their arguments  
and objections relating to 602(a)  
storage determinations

USBR requested AZ to provide  
letter with specific language  
desired

Thoughts - OK w/ UB & LB don't agree w/ 8.25  
annual LB delivery (but don't have  
each party state reasons)  
- not OK w/ arguing about 602(a)  
in HD (irrelevant)

better to leave HD alone & for USBR to  
support AZ with letter stating that action on  
HD LB does not address 1st question re: 8.25 & 602(a)



**Whipple, John J., OSE**

**From:** Don Ostler [dostler@uc.usbr.gov] **Sent:** Thu 3/8/2007 5:43 PM  
**:** scott@balcombgreen.com; landerson@barnettwater.com; rbratton@brattonhill.com; ptyrre@seo.wyo.gov; Rod.Kuharich@state.co.us; Dantonio, John, OSE; Don Ostler; DENNISSTRONG@utah.gov  
**Cc:** sfarris@ago.state.nm.us; jlochhead@bhf-law.com; dmerritt@crwcd.org; ekuhn@crwcd.org; djensen@pblutah.com; jshiel@seo.wyo.gov; carol.angel@state.co.us; Hal.Simpson@state.co.us; john.cyrans@state.co.us; Randy.Seaholm@state.co.us; ted.kowalski@state.co.us; Lopez, Estevan, OSE; Whipple, John J., OSE; Trujillo, Tanya, OSE; pmicha@state.wy.us; Jane Bird; jerryolds@utah.gov; normanjohnson@utah.gov; robertking@utah.gov  
**Subject:** Hydrologic Determination Meeting  
**Attachments:**

**Commissioners:**

This is just to pass on information I obtained from Dave Trueman of the Bureau regarding the meeting that was held in Phoenix to address Arizona's request for consultation on the hydrologic determination.

It was reported that there was a long discussion on all the technical issues that Arizona raised in their comment letter. I understand Jerry Zimmerman was there for California and John Entsminger from Arizona...In spite of Bureau explanation of the technical assumptions used in the Hydro Determination, there was not much retreating from their original positions expressed by Arizona.....However, to make a long story short, if Arizona is not to get the technical assumption changes they requested, they still want two remaining items as follows:

1. They want a sentence in the hydrologic determination stating that the lower basin does not agree with the assumption of an 8.25 delivery to the lower basin. They believe it should be more to cover delivery losses on the upper basin share of the Mexican treaty water all the way to the international border. They want their argument on this preserved.

2. They want their argument on the 602 a storage preserved that they challenge the assumptions used in the calculation. I don't know what this has to do with the hydro determination...except they say inconsistent assumptions are used in the hydro determination.

There are good rebuttals for both of these which you all have heard before....I am concerned that Arizona and perhaps California are raising issues that again show a lack of good faith with the basin states agreement....I would hope there is a way to handle these issues without blowing the lid off the agreement.....It may be that the Bureau does not entertain their changes or they find a way to accommodate them by saying in the hydrodetermination that neither the Upper Basin nor the lower basin agree with the 8.25 delivery...

Don Ostler

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OSE-1508



**Whipple, John J., OSE**

**From:** Don Ostler [dostler@uc.usbr.gov] **Sent:** Fri 3/9/2007 10:58 AM  
**To:** scott@balcombgreen.com; landerson@barnettwater.com; rbratton@brattonhill.com; ptyrre@seo.wyo.gov; Rod.Kuharich@state.co.us; Dantonio, John, OSE; Don Ostler; DENNISSTRONG@utah.gov  
**Cc:** sfarris@ago.state.nm.us; jlochhead@bhf-law.com; dmerritt@crwcd.org; ekuhn@crwcd.org; djensen@pblutah.com; jshiel@seo.wyo.gov; carol.angel@state.co.us; Hal.Simpson@state.co.us; john.cyrano@state.co.us; Randy.Seaholm@state.co.us; ted.kowalski@state.co.us; Lopez, Estevan, OSE; Whipple, John J., OSE; Trujillo, Tanya, OSE; pmicha@state.wy.us; Jane Bird; jerryolds@utah.gov; normanjohnson@utah.gov; robertking@utah.gov  
**Subject:** Re: Hydrologic Determination Meeting  
**Attachments:**

Hello All:

I want to relay general feedback from the below mentioned meeting on the hydrologic determination but from the perspective of John Entsminger of SNWA who was there as an observer. John felt that Trueman's view of the meeting was far too negative...John felt that Az and Ca. had softened their position greatly...He said that Az and Ca. both said that they were going to send a final clarifying letter to the Bureau on their points (I assume this means their position on 8.25 vs. something higher and the 602 a storage, but that they both said whatever the Bureau decides is the end of the issue. Both said they did not want to get into a letter writing campaign with the upper basin and they did not want to generate any more controversy with the upper basin...They said whatever the Bureau decides is the end of it for them...So the SNWA take on the meeting was a lot less harsh than the Trueman version....For what it is worth....

Don Ostler

>>> Don Ostler 03/08 5:43 PM >>>

Commissioners:

This is just to pass on information I obtained from Dave Trueman of the Bureau regarding the meeting that was held in Phoenix to address Arizona's request for consultation on the hydrologic determination.

It was reported that there was a long discussion on all the technical issues that Arizona raised in their comment letter. I understand Jerry Zimmerman was there for California and John Entsminger from Arizona...In spite of Bureau explanation of the technical assumptions used in the Hydro Determination, there was not much retreating from their original positions expressed by Arizona.....However, to make a long story short, if Arizona is not to get the technical assumption changes they requested, they still want two remaining items as follows:

1. They want a sentence in the hydrologic determination stating that the lower basin does not agree with the assumption of an 8.25 delivery to the lower basin. They believe it should be more to cover delivery losses on the upper basin share of the Mexican treaty water all the way to the international border. They want their argument on this preserved.
2. They want their argument on the 602 a storage preserved that they challenge the assumptions used in the calculation. I don't know what this has to do with the hydro determination...except they say inconsistent assumptions are used in the hydro determination.

There are good rebuttals for both of these which you all have heard before....I am concerned that Arizona and perhaps California are raising

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issues that again show a lack of good faith with the basin states agreement....I would hope there is a way to handle these issues without pulling the lid off the agreement.....It may be that the Bureau does not entertain their changes or they find a way to accommodate them by saying in the hydrodetermination that neither the Upper Basin nor the lower basin agree with the 8.25 delivery...

Don Ostler

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**Whipple, John J., OSE**

**From:** Dave Merritt [dmerritt@crwcd.org] **Sent:** Fri 3/9/2007 5:37 PM  
**To:** Don Ostler; Eric Kuhn; jshiel@seo.wyo.gov; Hal.Simpson@state.co.us; Randy.Seaholm@state.co.us; Lopez, Estevan, OSE; Whipple, John J., OSE; jerryolds@utah.gov; robertking@utah.gov  
**Cc:**  
**Subject:** Discussion on Hydrodetermination  
**Attachments:**  Copy of HD Model (3).xls(1MB)

I am attaching the HD spreadsheet model which was used last June in the new hydrologic determination. This assumed that approximately 4.5 MAF of non-CRSP storage was evacuated to meet Upper Basin demands and maintain delivery to the Lower Basin during the critical period. This included approximately 2.3 MAF of non-CRSP storage in Colorado, including all of the storage for the Colorado-Big Thompson and Denver water, all West Slope Compensatory Storage, and many significant state and private projects. In Utah, it included all of Soldier Creek and Starvation Reservoirs (over 1.3 MAF), and all but about 200 KAF in Flaming Gorge, yet it preserved nearly 700,000 acre feet of storage at Navajo to protect the ability of NIIP to continue to divert. I believe that a response on the 602a argument that this amount is necessary to preserve the ability to continue to utilize water in the Upper Basin is dangerous, in that it may call into question the assumptions utilized in the Hydrodetermination. There are more facilities than just NIIP that will not be able to provide project water when totally evacuated.

David H. Merritt, P.E.  
Civil Engineer  
Colorado River Water Conservation District  
(970) 945-8522  
(970) 379-7064 (cell)  
[www.ColoradoRiverDistrict.org](http://www.ColoradoRiverDistrict.org)

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**Whipple, John J., OSE**

**From:** Don Ostler [dostler@uc.usbr.gov] **Sent:** Fri 3/9/2007 3:19 PM  
 scott@balcombgreen.com; landerson@barnettwater.com; rbratton@brattonhill.com; ptyrre@seo.wyo.gov; Rod.Kuharich@state.co.us; Dantonio, John, OSE; Don Ostler; DENNISSTRONG@utah.gov

**Cc:** sfarris@ago.state.nm.us; jlochhead@bhf-law.com; dmerritt@crwcd.org; ekuhn@crwcd.org; djensen@pblutah.com; jshiel@seo.wyo.gov; carol.angel@state.co.us; Hal.Simpson@state.co.us; john.cyrano@state.co.us; Randy.Seaholm@state.co.us; ted.kowalski@state.co.us; Lopez, Estevan, OSE; Whipple, John J., OSE; Trujillo, Tanya, OSE; pmicha@state.wy.us; Jane Bird; jerryolds@utah.gov; normanjohnson@utah.gov; robertking@utah.gov

**Subject:** Hydrologic Determination

**Attachments:**

**Commissioners:**

Following is the latest update on the consultation meeting in Phoenix yesterday on the hydrologic determination.

When Dave Trueman briefed me on the meeting yesterday I verbally expressed concerns to him that Arizona's requested changes to the language in the hydrologic determination (regarding their opinion that the release should be more than the assumed 8.25 MAF) might be seen by the Upper Basin as a lack of good faith with the spirit and letter of the proposed basin states agreement....I said that this might be seen by some as opposition to Upper Basin development of their full apportionment...I told him I did not know what discussions this might spawn at the basin states meeting....Apparently Dave Trueman went back to Tom Carr and convinced him that sending a letter right now on this may have unintended consequences and become a problem for the Upper Basin. Dave has now reported to me that Arizona does not intend to send a formal letter...However, the Bureau does expect to receive an e mail from them suggesting language regarding the 8.25 release that they would like....I told Dave that making changes in the current language may cause further problems, especially if they go into detail about the reasons that the lower basin thinks the flow at Lee Ferry should be more than 8.25...I told him the language in the Determination already contains a statement that the UCRC does not agree with the modeling assumption of 8.23 including 0.75 every year for the Mexican treaty. If the Bureau makes any change at all, perhaps they might just say that neither the Upper basin nor the lower basin agree with the assumption of 8.25 at Lee Ferry.... and leave it at that...

Dave told me there will be no language regarding the 602a issue pertaining to the hydrologic determination....although Arizona may mention it in their e mail...??? Dave said that once this issue gets cleared, he felt that Limbaugh would push the determination through to signature in the near term...

Don Ostler

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**Whipple, John J., OSE**


From: Jane Bird [JBird@uc.usbr.gov]

Sent: Wed 3/21/2007 1:08 PM

To: Whipple, John J., OSE

Cc:

Subject: Fwd: Proposed changes to Hydrologic Determination from TimHenley

Attachments:  [Fwd: Proposed changes to Hydrologic Determination from TimHenley\(297KB\)](#)

John:

Dave Trueman called. I guess he's pretty anxious to hear the comments of the "Upper Division States" on the Lower Basin's comments on the Hydrologic Determination. Do you have any reaction to the Lower Basin's comments?

Personally, I have no problem with adding that the Lower Basin doesn't agree with the 8.23 release. For some reason, though, the "at the SOLE request of the Commission" bothers me. For one thing, I didn't know UCRC made any modeling requests--did it? IF UCRC did request the analyses, I guess the Lower Basin's third suggested change is okay.

Perhaps we can wait 'til Don returns to talk to USBR?

Jane

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Whipple, John J., OSE

From: Don Ostler [dostler@uc.usbr.gov]  
To: Jane Bird  
Cc:  
Subject: Fwd: Proposed changes to Hydrologic Determination from TimHenley  
Attachments:  Hydro Determination - proposed edits (2007-0315).doc(296KB)

Sent: Wed 3/21/2007 12:38 PM

>>> Dave Trueman 03/16 2:49 PM >>>  
Don and John,

Here are Tim Henley's suggested edits. I am pretty surprised that they heeded our advice to avoid explaining/justifying their position on the Treaty. They also agree to run this forward informally to see if we could reach an agreement (rather than trade letters).

This really seems like a very small bone to throw toward the LB States. If there are serious issues that you cannot live with, please let me know. I'd like to recommend moving it forward to the ASWS and conclude the HD. That would be easiest if we can say that with the addition of these changes that both the UB and LB are done commenting on the draft.

Regards - DaveT

David Trueman  
Division Manager UC-400  
Resources Management Division  
US Bureau of Reclamation  
125 S. State Street, Rm 6432  
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OSE-1514

## PROPOSED CHANGES

### Hydrologic Determination, May 2006 Draft

#### Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico

The Upper Colorado River Commission does not agree with the modeling assumption of an objective minimum release of 8.23 maf and the assumed delivery of 0.75 maf each year toward the Mexican Treaty obligation included therein. At the request of the Commission, this hydrologic investigation considers for planning purposes both the objective minimum release of 8.23 maf and a minimum release from Lake Powell of 7.48 maf annually. However, this hydrologic determination does not quantify the Colorado River Compact Article III(c) requirement or make or rely on a critical compact interpretation regarding Article III(c). The 1988 Hydrologic Determination also showed the Upper Basin yields under both minimum release scenarios.

Page 3, second paragraph under III.B. Approach - proposed changes:

~~Neither the Lower Division states nor the Upper Colorado River Commission does not agree with the modeling assumption for an objective minimum release of 8.23 maf and the assumed delivery of 0.75 maf each year toward the Mexican Treaty obligation included therein. At the sole request of the Commission, this hydrologic investigation considers for planning purposes both the objective minimum release of 8.23 maf and a minimum release from Lake Powell of 7.48 maf annually. However, this hydrologic determination does not quantify the Colorado River Compact Article III(c) requirement or make or rely on a critical compact interpretation regarding Article III(c). The 1988 Hydrologic Determination also showed the Upper Basin yields under both these minimum release scenarios.~~

## VII. Conclusions

It is concluded that the Upper Basin yield and New Mexico water allocation needed to support New Mexico's revised Upper Basin depletions schedule are reasonably likely to be available. The mass balance analyses results are sufficient to conclude that: (1) the Upper Basin yield is at least 5.76 maf per year, on average, excluding shared CRSP reservoir evaporation; (2) New Mexico's Upper Basin allocation is at least 642,400 af per year, excluding shared CRSP reservoir evaporation; and (3) the total anticipated average annual consumptive use in New Mexico from the Upper Basin, including Navajo Reservoir evaporation, of 642,000 af per year as shown in the revised New Mexico depletions schedule is not likely to exceed New Mexico's Upper Basin allocation. This conclusion is reached assuming full use of the Navajo Nation's proposed depletion rights under the Settlement Agreement for both the Navajo-Gallup Water Supply Project and the NIIP.

Page 7, first sentence, first paragraph under VII. Conclusions. – proposed changes:

It is concluded that <sup>based on the analysis requested by the Commission</sup> ~~based on the analysis requested by the Commission~~, the Upper Basin yield and New Mexico water allocation needed to support New Mexico's revised Upper Basin depletions schedule are reasonably likely to be available.

## PROPOSED CHANGES

### Hydrologic Determination, May 2006 Draft

#### Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico

The Upper Colorado River Commission does not agree with the modeling assumption of an objective minimum release of 8.23 maf and the assumed delivery of 0.75 maf each year toward the Mexican Treaty obligation included therein. At the request of the Commission, this hydrologic investigation considers for planning purposes both the objective minimum release of 8.23 maf and a minimum release from Lake Powell of 7.48 maf annually. However, this hydrologic determination does not quantify the Colorado River Compact Article III(c) requirement or make or rely on a critical compact interpretation regarding Article III(c). The 1988 Hydrologic Determination also showed the Upper Basin yields under both minimum release scenarios.

Page 3, second paragraph under III.B. Approach - proposed changes:

~~Neither the Lower Division states nor~~ ~~The the~~ Upper Colorado River Commission does not agree with the modeling assumption ~~of for an the~~ objective minimum release of 8.23 maf and the assumed delivery of 0.75 maf each year toward the Mexican Treaty obligation included therein. At the sole request of the Commission, this hydrologic investigation considers for planning purposes both the objective minimum release of 8.23 maf and a minimum release form Lake Powell of 7.48 maf annually. However, this hydrologic determination does not quantify the Colorado River Compact Article III(c) requirement or make or rely on a critical compact interpretation regarding Article III(c). The 1988 Hydrologic Determination also showed the Upper Basin yields under both these minimum release scenarios.

## VII. Conclusions

It is concluded that the Upper Basin yield and New Mexico water allocation needed to support New Mexico's revised Upper Basin depletions schedule are reasonably likely to be available. The mass balance analyses results are sufficient to conclude that: (1) the Upper Basin yield is at least 5.76 maf per year, on average, excluding shared CRSP reservoir evaporation; (2) New Mexico's Upper Basin allocation is at least 642,400 af per year, excluding shared CRSP reservoir evaporation; and (3) the total anticipated average annual consumptive use in New Mexico from the Upper Basin, including Navajo Reservoir evaporation, of 642,000 af per year as shown in the revised New Mexico depletions schedule is not likely to exceed New Mexico's Upper Basin allocation. This conclusion is reached assuming full use of the Navajo Nation's proposed depletion rights under the Settlement Agreement for both the Navajo-Gallup Water Supply Project and the NIIP.

Page 7, first sentence, first paragraph under VII. Conclusions. – proposed changes:

It is concluded that based on the analysis requested by the Commission, the Upper Basin yield and New Mexico water allocation needed to support New Mexico's revised Upper Basin depletions schedule are reasonably likely to be available.





**Whipple, John J., OSE**

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**From:** Don Ostler [dostler@uc.usbr.gov]  
**To:** Whipple, John J., OSE  
**Cc:**  
**Subject:** Re: FW: asap - HD changes  
**Attachments:**

Sent: Mon 3/26/2007 3:26 PM

John:

Your language looks good to me...Dave Trueman's is even worse than Arizona's requested language...Let me know what New Mexico decides regarding continuing to get this wording changed....I am surprised that the Bureau is trying so hard to put Arizona's language into the Determination because Arizona had previously indicated to the Bureau that what ever the Bureau decided after reviewing Arizona's language, that would be the end of the issue...

Don

>>> "Whipple, John J., OSE" <john.whipple@state.nm.us> 03/26 11:00 AM  
>>>

Don:

Attached for your information are Arizona's suggested edits to the May 2006 draft HD, Trueman's proposed response, and my proposed response. The New Mexico commissioner/principals have not yet decided how to respond to Reclamation and Arizona, or whether to pursue my proposed response. I will keep you posted.

John W.

---

**From:** Whipple, John J., OSE  
**Sent:** Thu 3/22/2007 4:09 PM  
**To:** Trujillo, Tanya, OSE  
**Cc:** Lopez, Estevan, OSE  
**Subject:** asap - HD changes

Tanya:

The attached is revised from what I sent you earlier today based on further input from Trueman.

John


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 This message was sent with high importance.

**Whipple, John J., OSE**

**From:** Dave Trueman [DTRUEMAN@uc.usbr.gov]

**Sent:** Thu 3/22/2007 1:13 PM

**To:** Whipple, John J., OSE

**Cc:**

**Subject:** Fwd: Alternative HD Language

**Attachments:**

**\*\* High Priority \*\***

Neither the Upper Colorado River Commission nor the Lower Division states agree with the minimum objective release used by Reclamation for Lake Powell. Reclamation typically uses a minimum objective release of 8.23 maf annually as a compromise for planning purposes only. At the request of the Commission, this hydrologic investigation also considers the effects of a minimum release of 7.48 maf annually as was done in the 1988 Hydrologic Determination. The Lower Division states would have preferred a figure slightly higher than the 8.23 maf annual minimum objective release assumption. This hydrologic determination does not quantify the Colorado River Compact Article III(c) requirement or make or rely on a critical compact interpretation regarding Article III(c).

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<https://webmail.state.nm.us/exchange/john.whipple/Inbox/Fwd:%20Alternative%20HD%20Language.EM...> 3/22/2007