

Colorado River Quantification Settlement Agreement

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On October 15, 2003 an era of contentious in-fighting among long-warring California water interests came to an end. In place of escalating political rhetoric and legal wrangling, California finally delivered on its promise to the federal government and the other Colorado River Basin States to live within its basic apportionment of Colorado River Water.

More than 9 months after the federal government reduced California's deliveries in accordance with federal guidelines designed to go into effect should California fail to make good on its earlier promises, extraordinary leadership from former Governor Davis and his staff, as well as grueling negotiations among Colorado River Basin States presided over by Assistant Secretary Bennett Raley, led to the execution of the Quantification Settlement Agreement (QSA). The QSA and the literally dozens of related agreements provide an integrated, albeit complex, roadmap for efficient management of Colorado River Resources for a minimum of 35 years. Some components of the underlying program will last in excess of 110 years.

The Colorado River remains the most important water supply to Southern California, and successful management of this supply is of great significance to all of California but especially the Imperial Irrigation District (IID), the Coachella Valley Water District (CVWD), the Metropolitan Water District of

Southern California (MWD) and the San Diego County Water Authority (SDCWA). These agencies looked to the Colorado River as their life- blood, and the future of the Southern California economy depends on the Colorado River remaining a reliable water supply.

Prospects that California might not pull a deal together threatened to strain a great number of relationships. Some of the more obvious were linked to the acknowledged fact that much of urban Southern California relies upon two major export projects to meet its needs: the Colorado River and the State Water Project (SWP). If the Colorado River was not going to be available, greater attention was likely to be focused on the SWP.

Unfortunately, the SWP tends to be an irregular performer from year to year. And if Colorado River water were not going to be available in the expected historical quantities, stress would be placed upon all other supplies to meet long-term needs in many portions of the State. Consequently, water interests watching the progress of the QSA negotiations began to stake out territory that would become vital in the event of protracted delays or even failure.

Second, environmental interests were growing weary over the State/Federal indecision regarding the fate of the Salton Sea. For much of the early negotiating and authorization period the Salton Sea was thought to travel an independent but parallel path. The absence of an acknowledged process for determining how or at what level the

Salton Sea would be restored led to an increased tendency to want to squeeze, if not strangle, the deal.

Third, California's excuses for non-performance and its good will with other Colorado River Basin States and the Federal Government were wearing thin. The State of Nevada in particular, had in part, bet its short-term future and its sharing in surplus Colorado River water upon California's ability to meet its targets as outlined in the Federal Interim Surplus Guidelines. Given the enormous consequences to California for non-performance and the pressure of the Federal Government to be open to this approach, the position seemed eminently reasonable. However, when the California agencies failed to meet the December 31, 2002 deadline for completing the QSA, with each passing month Nevada became increasingly skeptical and concerned.

The initiation of litigation between the Secretary of the Interior and IID further raised the stakes by threatening to unveil some State-Federal conflicts regarding the appropriate Law of the River. Thus, it was with great relief to all involved, directly and indirectly, that California was able to execute all the underlying documents and deliver "peace on the river."

Here is why:

- ◆ It provides California with the "soft-landing" and the availability of Special Surplus Criteria amounting to millions of acre-feet of water.

- It provides economic incentives for IID to engage in voluntary conservation measures of its choosing to produce water for transfer to SDCWA, CVWD and MWD.
 - It includes the quantification of agricultural water entitlements on the Colorado River, providing a basis for efficient river management and a basis for future conservation and trading.
 - It continues and extends the IID/MWD conservation agreement for approximately 110,000 acre-feet of water.
 - It authorizes the transfer of 200,000 acre-feet of water per year from IID conservation to SDCWA for a minimum of 35 years.
 - It authorizes the lining of the All-American and Coachella Canals and the transfer of up to approximately 77,7000 acre-feet of water per year to SDCWA for 110 years.
 - It provides water in perpetuity for the San Luis Rey Indian Tribes.
 - It provides water from the lining of the Canals to the San Luis Rey Settlement Parties.
 - It assures that the restoration of the Salton Sea will move forward.
 - It provides up to 1.6 million acre-feet of water to be made available by IID for sale to DWR and then to MWD to raise money for restoration of the Salton Sea.
- It is true that a number of lawsuits have been filed, predominantly to challenge the adequacy of the environmental documentation and issues internal to IID and its landowners. However, given the magnitude of the transaction, the litigation was hardly unexpected. All parties to the QSA are hopeful that the litigation can be managed and that this historic Colorado River management plan will remain intact.

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