COLORADO RIVER BOARD OF CALIFORNIA
770 FAIRMONT AVENUE, SUITE 100
GLENDALE, CA 91203-1068
(818) 500-1625
(818) 543-4685 FAX

May 29, 2014

NOTICE OF REGULAR MEETING OF THE COLORADO RIVER BOARD

NOTICE IS HEREBY GIVEN pursuant to the call of the Chairperson, Dana B. Fisher, Jr., by the undersigned Executive Director of the Colorado River Board of California that a regular meeting of the Board Members is to be held as follows:

Date:	Wednesday, June 11, 2014
Time:	10 a.m.
Place:	Room 306 Radisson Ontario 2200 E. Holt Boulevard Ontario, CA 91761 TEL: (909) 975-5000, FAX: (909) 975-5050

The Colorado River Board of California welcomes any comments from members of the public pertaining to items included on this agenda and related topics. Oral comments can be provided at the beginning of each Board meeting; while written comments may be sent to Mr. Dana B. Fisher, Jr., Chairperson, Colorado River Board of California, 770 Fairmont Avenue, Suite 100, Glendale, California, 91203-1068.

An Executive Session may be held in accordance with provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code and in accordance with Sections 12516 and 12519 of the Water Code to discuss matters concerning interstate claims to the use of Colorado River System waters in judicial proceedings, administrative proceedings, and/or negotiations with representatives from other states or the federal government.

Requests for additional information may be directed to: Ms. Tanya M. Trujillo, Executive Director, Colorado River Board of California, 770 Fairmont Avenue, Suite 100, Glendale, CA 91203-1068, or 818-500-1625. A copy of this Notice and Agenda may be found on the Colorado River Board's web page at www.crb.ca.gov.

A copy of the meeting agenda, showing the matters to be considered and transacted, is attached.

Tanya M. Trujillo
Executive Director

attachment: Agenda

Regular Meeting
COLORADO RIVER BOARD OF CALIFORNIA
June 11, 2014, Wednesday
10:00 a.m.

Room 306
Radisson Ontario
2200 E. Holt Blvd.
Ontario, CA 91761

AGENDA

At the discretion of the Board, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated upon and may be subject to action by the Board. Items may not necessarily be taken up in the order shown.

1. Call to Order

2. Opportunity for the Public to Address the Board (Limited to 5 minutes)
   As required by Government Code, Section 54954.3(a)

3. Administration
   a. Consideration and Approval of the Minutes of the Meeting held May 14, 2014 **(Action)**
   b. Approval of Fiscal Year 2014-2015 Colorado River Board Budget **(Action)**

4. Colorado River Basin Water Reports
   a. Reports on current reservoir storage, reservoir releases, projected water use, and forecasted river flows
   b. State and Local Water Reports

5. Update regarding the 2014 California Drought

6. Staff Reports regarding Colorado River Basin Programs
   a. Review status of the Colorado River Basin Water Supply and Demand Study
   b. Review status of the implementation of Minute 319
   c. Review status of the Salinity Control Forum Workgroup and Advisory Council
   d. Review status of the Glen Canyon Dam Adaptive Management Work Group and Long Term Experimental Management Plan EIS
   e. Review status of the Lower Colorado River Basin Multi-Species Conservation Program

7. Announcements/Notices

8. Executive Session

An Executive Session may be held by the Board pursuant to provisions of Article (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code and Sections 12516 and 12519 of the Water Code to discuss matters concerning interstate claims to the use of Colorado River system waters in judicial proceedings, administrative proceedings, and/or negotiations with representatives from other states or the federal government.

9. Other Business

a. Next Board Meeting: July 9, 2014
10 a.m.
Vineyard Room
Holiday Inn Ontario Airport
2155 East Convention Center Way
Ontario, CA 91764-4452

Minutes of Meeting
COLORADO RIVER BOARD OF CALIFORNIA
Wednesday, May 14, 2014

A Meeting of the Colorado River Board of California (Board) was held in the Vineyard Room, of the Holiday Inn Ontario Airport, 2155 East Convention Center Way, Ontario, California, Wednesday, May 14, 2014.

Board Members and Alternates Present

Dana Bart Fisher, Jr., Chairman
Franz De Klotz
James Hanks
Henry Kuiper
Glen Peterson
David Pettijohn
Doug Wilson
Jeanine Jones, Designee
Department of Water Resources
David Vigil, Designee
Department of Fish & Wildlife

Board Members and Alternates Absent

Stephen Benson
Terese Ghio
James McDaniel
Bud Pocklington
John Powell, Jr.

Others Present

Steve Abbott
Tim Blair
John Carter
Shane Chapman
J.C. Jay Chen
Dan Denham
Christopher Harris
Bill Hasencamp
Michael Hughes
Lisa Johansen
Lori Jones
Eric Katz
Tom Levy
Kara Mathews
Jan Matusak
Doug McPherson
Autumn Plourd
Angela Rashid
Tom Ryan
Jack Seiler
Tina Shields
Ed Smith
Joanna Smith
Mark Stuart
Michael Touhey
Tanya Trujillo
Mark Van Vlack
Jerry Zimmerman

CALL TO ORDER

Chairman Fisher announced the presence of a quorum and called the meeting to order at 10:12 a.m.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Chairman Fisher asked if there was anyone in the audience who wished to address the Board on items on the agenda or matters related to the Board. Hearing none, Chairman Fisher moved to the next agenda item.

Chairman Fisher announced that Mr. Randy Record was unanimously elected as Chairman of the Board at The Metropolitan Water District of Southern California who replaced Mr. Jack Foley.

ADMINISTRATION

Approval of Minutes of the April 9, 2014 Colorado River Board Meeting

Chairman Fisher asked if there was a motion to approve the April 9, 2014 minutes. Mr. Kuiper moved that the minutes be approved, seconded by Mr. Pettijohn, and unanimously carried, the April 9, 2014, meeting minutes were approved.

Announcements/Notices

Ms. Trujillo reported that a confirmation hearing was held at the Senate Energy and Natural Resources Committee for the nomination of Mr. Estevan Lopez as Commissioner of the U.S. Bureau of Reclamation (Reclamation). Mr. Lopez is currently the Director of the Interstate Stream Commission in New Mexico. Ms. Trujillo reported that the Colorado River Board and certain member agencies have sent a letter to the Committee in support of his nomination. Ms. Trujillo also reported that Ms. Suzette Kimball has been nominated to be Director of the United States Geological Survey (U.S.G.S.) and is currently serving as the Acting Director. The next step will be for the Committee to report out the nominees and then confirmation by the full Senate will be necessary.

COLORADO RIVER BASIN WATER REPORT AND CALIFORNIA DROUGHT UPDATE

Colorado River Basin Water Report

Ms. Trujillo provided the Board with an updated water report regarding precipitation and water supply conditions in the Colorado River Basin. She reported that

as of May 5, 2014, the water level at Lake Mead was at 1,093 feet with 11.19 million acre-feet (maf) of storage, or 43% of capacity, while the water level at Lake Powell was at 3,579 feet with 9.82 maf of storage, or 40% of capacity. The total System active storage as of May 4 was just over 28 maf, or 47% of capacity, which is nearly 3.0 maf less than one year ago when the System storage was at 52% of capacity. Ms. Trujillo indicated that the Denver area and the Western Slope of Colorado seem to be near or slightly above average for precipitation.

Ms. Trujillo reported that the unregulated inflow into Lake Powell for Water Year 2014, based on Reclamation's May 2, 2014 information, is forecast to be 10.8 maf, or 100% of average. She also indicated that the Upper Basin snowpack was at 102% of average and the Water Year 2014 precipitation to date was at 97% of average.

Ms. Trujillo reported that on April 25, 2014, Governor Brown issued a Proclamation of a Continued State of Emergency that continues all of the drought relief programs initiated through the initial January 17, 2014, drought State of Emergency declaration and initiates 19 additional actions that should be implemented to help address the drought conditions. The Department of Water Resources has continued to issue weekly Drought Briefs to provide updates on current conditions and key action items taking place regarding the drought. The April 29, 2014 Drought Monitor map for California indicates that over 70% of the State continues to experience extreme or exceptional drought conditions and 100% of the state continues to experience some level of drought conditions. The statewide snowpack reports are still far below average, reading 18% of average as of the May 1 snowpack readings.

State and Local Agency Reports

Ms. Jeanine Jones, of the Department of Water Resources, also reported that the Governor's revised state budget included some additional funding related to the on-going drought. Much of this proposed funding would be directed to CalFire for fire suppression as well as additional emergency drought relief funding. Ms. Jones also reported that funding has been provided to DWR associated with drought management activities. She also indicated that the California Legislature currently has a couple of bills pending that address groundwater management. Finally, Ms. Jones reported that DWR and the Water Education Foundation are hosting a major drought forum event in Sacramento on June 4. She stated that one of the themes for the forum will be to improve forecast predictability for the future, and she mentioned the current projections of a potential El Nino water year in 2015 as an example.

Mr. Mark Stuart, with DWR's Southern District, provided an overview of current water supply conditions statewide. Mr. Stuart reported that precipitation in the southern California region is well below normal, and that the water year should finish with the region having received about six inches for the year. He indicated that since last month's report that the Los Angeles region had picked up and additional third of an inch of precipitation, and that the region is somewhere between 25-45% of average. Mr. Stuart reported that with several good storms during the past couple of months have pushed the

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Sierra snowpack has recovered somewhat, but that the overall snowpack was still well below normal, at about 50% of average. Currently, DWR projects that the runoff is likely to be about 35% of normal. Mr. Stuart also reported that statewide reservoir storage still remains well below normal, at about 70% of average, for this time of year. He did indicate that DWR has raised the State Water Project allocations from 0% of allocation to 5% of allocation, but that these deliveries will not start until September 1st.

Mr. Glen Peterson, of the Metropolitan Water District of Southern California, reported that MWD's total system storage was currently at about 68% of capacity. Mr. Peterson indicated that MWD is now using Colorado River water supplies throughout the entire District, not just the eastern portions as is normally the case. Mr. Peterson reiterated that MWD continues to be involved in a number of important water storage and conservation programs in the Central Valley, and that MWD will likely be drawing upon these supplies as the year progresses. Finally, Mr. Peterson introduced Mr. Michael Touhey, a Metropolitan Director from the Upper San Gabriel Valley Municipal Water District, as the alternate MWD representative to the Colorado River Board of California.

Mr. David Pettijohn, of the Los Angeles Department of Water and Power, reported that the snowpack in the Eastern Sierra supplying the Los Angeles Aqueduct is well below normal and that precipitation conditions as of April 1st were still below 50% of normal. He indicated that it currently looks like the City of Los Angeles will be relying primarily on Colorado River water supplies from MWD to meet the City's needs.

COLORADO RIVER BASIN PROGRAM REPORTS

Colorado River Basin Water Supply and Demand Study

Ms. Trujillo reported that the workgroups continue their efforts to develop their "Phase One" reports to document the Next Steps component of the Basin Study. The reports will be consolidated into a final report that will be completed later this summer. The next meeting of the Coordinating Committee is scheduled for May 19, 2014 in Las Vegas, Nevada, where they will be presented with detailed updates from each of the workgroups.

Minute 319 Implementation

Ms. Trujillo reported that as of May 2, 2014 the Minute 319 "pulse flow" has traveled approximately 80 miles down the river channel from Morelos Dam. Ms. Trujillo stated that Reclamation is predicting a connection between the pulse flow and the sea on May 15, 2014, which is based on the high tide conditions in the Delta. The pulse flow is being carefully tracked by a team of scientists, primarily from US and Mexican federal agencies. There is also some involvement from the University of Arizona and a bi-national group of Non-Governmental Organizations (NGOs), which have tracked similar events in the past. Ms. Trujillo reported that the base flow component of Minute 319 anticipates an additional 52,000 acre-feet of water that will be distributed to selected areas in the Delta over the next 4 years to supplement and encourage growth of habitat in

areas that may have been developed as a result of the pulse flow.

Ms. Trujillo responded to Mr. Peterson's question regarding wells are being recharged as a result of the pulse flow. Ms. Trujillo explained that there is a significant amount of groundwater pumping in Mexico for agricultural purposes and the effect of the pulse flow on the recharge levels is included in the monitoring plan as an issue to evaluate. Ms. Trujillo pointed out that currently Mexico is using their existing irrigation infrastructure to route the pulse flow and that they are no longer releasing water through Morelos Dam in order to extend the water as far as possible.

Chairman Fisher asked if there were any reported impacts from the high water in the southern part of the Yuma Valley. Ms. Trujillo responded that she had not heard of any reports of damage or adverse results, and that significant modeling was done to avoid damage.

Colorado River Basin Salinity Control Program

Ms. Trujillo reported that a subcommittee of the Colorado River Basin Salinity Control Forum continues to meet and brainstorm various options for addressing the Lower Basin Development Fund shortfall issue associated with cost-sharing implementation of the salinity control program. She reported that the subcommittee would be holding another teleconference call in late-May.

Ms. Trujillo also reported that the Salinity Control Forum, Advisory Council and Work Group would be holding its next meeting in Jackson, Wyoming, June 10-13, 2014. She also indicated that she would be joining the Forum's Executive Director, Mr. Don Barnett, in Washington, D.C. to attend congressional briefings and meet with members of the various Basin state delegations and the administration in an effort to encourage continued or increased participation in and funding for the salinity control program.

Glen Canyon Dam—Long-Term Experimental Management Plan (LTEMP) EIS Process

Ms. Trujillo reported that the Basin States are looking forward to a late-May meeting with representatives of the Department of the Interior to continue discussions associated with the analysis of alternatives to be included in the Long-Term Experimental and Management Plan (LTEMP) EIS process. Much of the modeling of the proposed alternatives has been completed, and the co-lead agencies (i.e., National Park Service and Reclamation) have initiated preparation of sections of an administrative draft of the LTEMP EIS.

Ms. Trujillo also reported that the Adaptive Management Work Group would be holding a webinar meeting on May 27th, and that this meeting is primarily associated with the development of the triennial budget for the adaptive management program.

Board Member Wilson, of San Diego, asked Ms. Trujillo about the swing-weighting process that was described in the Executive Director's monthly report. Ms.

Trujillo responded by explaining that the Department of the Interior was utilizing a structured decision-making process as part of the LTEMP EIS to help identify the important resource goals and objectives and aid in balancing the competing interests of all of the stakeholder groups involved in the process (e.g., hydropower, recreation, Native American, endangered species, sediment, etc.). Toward achieving that balancing, the U.S. Geological Survey has developed a worksheet exercise that the stakeholders can participate in. Ms. Trujillo indicated that a similar type of process was utilized by the Basin States and the scientists that developed the Basin States' "Resource-Targeted Condition-Dependent" alternative that was submitted to the Department of the Interior for consideration in the LTEMP EIS.

Lower Colorado River Multi-Species Conservation Program

Mr. Harris reported that at its recent LCR MSCP Technical Work Group meeting in Phoenix, Arizona, on May 7-8, that Reclamation distributed the draft LCR MSCP "Implementation Report, Fiscal Year 2015 Work Plan and Budget, and Fiscal Year 2013 Accomplishment Report". He reported that in FY-2013, just over $31 million was expended for Program implementation activities. The draft report indicates that Reclamation is currently projecting that approximately $37 million will be expended for FY-2015 activities. In its report, Reclamation also reported that as of 2013, nearly 3,000 acres of habitat have been created and maintained, including nearly 2,000 acres of cottonwood-willow, nearly 500 acres of honey mesquite, and about 400 acres of marsh, and nearly 100 acres of backwater habitat. Mr. Harris indicated that the LCR MSCP, to date, a total of just over 130,000 razorback suckers and nearly 60,000 bonytail have been reintroduced to the Lower Colorado River.

Mr. Harris also reported that the U.S. Fish and Wildlife Service's (USFWS) Arizona Ecological Services Office is preparing to publish a technical correction to the official list of threatened and endangered species regarding the listed range for the Yuma clapper rail. Mr. Harris indicated that the Yuma clapper rail is also one of the key species targeted in the LCR MSCP. He stated that the result of the technical correction is the restoration of Mexico to the listed range of the Yuma clapper rail. Mr. Harris reported that the USFWS recently informed the LCR MSCP Steering Committee that implementing the technical correction will have no effects to the implementation of Sections 7 and 9 of the federal Endangered Species Act, as the "take prohibitions" of Section 9 do not apply in a foreign country, and that the Section 7 consultation and Section 10(a)(1)(B) permit establishing the LCR MSCP will not be affected by the technical correction, and no new Section 7 consultation is necessary because of this action.

Lower Colorado Water Supply Project Applications

Ms. Trujillo reported that the Board packet included a resolution for the Board's consideration on the Lower Colorado Water Supply Project (LCWSP). Ms. Trujillo reported that the process to review the applications is to verify that the proposed water uses and locations of the parcels meet the eligibility requirements for the project, and if

additional information is needed, the applicant is contacted. Ms. Trujillo reported that the current applications presented are associated with seven parcels of property that have requested approval for water uses under the project. There are two parcels in Imperial County and five in San Bernardino County. An exhibit is attached to the resolution that identifies the location of the parcels, the name of the owner, and the requested amount of water that the applicants are seeking. Ms. Trujillo also commented that, if the applications are approved by the Board, the City of Needles will be notified, and then the City of Needles and Reclamation can begin the process of setting up subcontracts for the new water users. Ms. Trujillo also stated that a couple of the applications involve requests to expand existing allocations from a previously authorized amount. The total quantity of subcontracted water sought, both for current and future use, is 48 acre-feet per year for the additional uses. Ms. Trujillo recommended the approval of the resolution and which would authorize CRB staff to contact Reclamation and the City of Needles to proceed with the contracting process to provide water for these new projected uses.

MOTION: Chairman Fisher asked if there was a motion to approve the LCWSP resolution. Mr. Pettijohn moved that the resolution be approved, seconded by Ms. Jones, and unanimously carried, the resolution was approved.

Ms. Trujillo provided a further update relating to the LCWSP. She reported that Congress authorized Phase Two of the project in 2006 and that the construction of the Phase II wells began in 2010 and is expected to be completed in October 2015. The overall project is about 50 percent complete.

In response to Chairman Fisher's question on the relative productivity of the existing wells, Ms. Trujillo stated that Reclamation's annual water use accounting report documents the exact amount of pumping that occurs through the project. Reclamation is projecting the use to be approximately 5,000 acre-feet for 2013. After drilling of the two new wells, the total capacity would be 10,000 acre-feet. Concerns about well capacity led to the authorization of Phase II of the project and have encouraged progress.

Announcements/Notices

Ms. Trujillo reported that a few additional documents have been added to the Board packet. Included in the packet is an April 7, 2014 letter from the Department of Interior addressed to the International Boundary Water Commission confirming the order of water for the pulse flow and reflecting that the same amount of water will be deducted in August, so that their accounting will break even with respect to the pulse flow. Also, included is an April 7, 2014 confirmation letter from Reclamation addressed to the Metropolitan Water District of Southern California verifying Reclamation's 2012 ICS creation amounts. Ms. Trujillo also reported that the Board packet included an April 15, 2014 letter from the Central Arizona Project (CAP) addressed to Reclamation announcing that CAP entered into a Pilot Fallowing and Forbearance Agreement with Yuma Mesa Irrigation and Drainage District (YMIDD). The letter suggests that Reclamation estimates that this test project will generate approximately 9,000 acre-feet in 2014. The letter also gives an advanced notice to Reclamation that CAP would like to

have the conserved water remain in the reservoir system and that CAP would agree not to divert the water as the water year progresses.

Finally, Ms. Trujillo reported that some of the member agencies participated in a tour sponsored by the State of Colorado last week. The tour participants saw several large projects in Colorado that utilize Colorado River water, both on the western side of the state, and through the trans-mountain diversion projects that carry water to the eastern slope.

Next Board Meeting

Chairman Fisher announced that the next meeting of the Colorado River Board will be held on Wednesday, June 11, 2014, at 10:00 a.m. at the Radisson Ontario, 2200 E. Holt Boulevard, Ontario, California.

There being no further items to be brought before the Board, Chairman Fisher asked for a motion to adjourn the meeting. Upon the motion of Mr. Kuiper, seconded by Mr. Peterson, and unanimously carried, the meeting was adjourned at 11:06 a.m. on May 14, 2014.

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RESOLUTION

OF

COLORADO RIVER BOARD

WHEREAS, the Colorado River Board of California's Fiscal Year 2014-15 budget is $1,651,000 pursuant to the Budget Act of 2014 and Executive Orders of the Governor; and

WHEREAS, Standard Agreement No. 47 provides for reimbursement of monies to the State of California's General Fund from the Six Agency Committee in support of 100 percent of the costs of the Colorado River Board of California's Fiscal Year 2014-15 budget in the amount of $1,651,000;

NOW THEREFORE BE IT RESOLVED THAT, the Colorado River Board of California approves the Fiscal Year 2014-15 budget and authorizes the Executive Director to execute Standard Agreement No. 47, between the Colorado River Board of California and the Six Agency Committee.

Adopted by unanimous consent on this 11th Day of June, 2014.

Dana B. Fisher, Jr.
Chairman

COLORADO RIVER BOARD OF CALIFORNIA
FY 2014-15 BUDGET
Budget Approved June 11, 2014

	Current Year Authorized FY 2013-14	Current Year Funded FY 2013-14	Anticipated Expenditures FY 2013-14	Budget FY 2014-15
Colorado River Board Total Budget	$ 1,618,000	$ 1,618,000	$ 1,500,000	$ 1,651,000
Six Agency Share	$ 1,618,000	$ 1,618,000	$ 1,500,000	$ 1,651,000

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER
47
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME
Colorado River Board of California

CONTRACTOR'S NAME
Six Agency Committee

2. The term of this Agreement is: July 1, 2014 through June 30, 2015

3. The maximum amount of this Agreement is: $ 1,651,000.00

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	1 page(s)
Exhibit B – Budget Detail and Payment Provisions	1 page(s)
Exhibit C* – General Terms and Conditions	
Check mark one item below as Exhibit D:	
☐ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	NA page(s)
☐ Exhibit - D* Special Terms and Conditions	
Exhibit E – Additional Provisions	NA page(s)
NA	

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		***California Department of General Services Use Only***
CONTRACTOR'S NAME *(If other than an individual, state whether a corporation, partnership, etc.)* Six Agency Committee		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING Dana B. Fisher, Jr., Chairman		
ADDRESS c/o 770 Fairmont Ave., Suite 100, Glendale, CA 91203-1068		
STATE OF CALIFORNIA		
AGENCY NAME Colorado River Board of California		
BY *(Authorized Signature)*	DATE SIGNED *(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING Tanya M. Trujillo, Executive Director		☐ Exempt per:
ADDRESS 770 Fairmont Ave., Suite 100, Glendale, CA 91203-1068		

EXHIBIT A

WHEREAS, pursuant to Part 5 of Division 6 of the California Water Code, the Colorado River Board of California has the duty and responsibility to protect the rights and interests of the State of California, its agencies and citizens in the water and power resources of the Colorado River System; and

WHEREAS, the 2014-15 State Budget sets forth an expenditure program for the Colorado River Board of California in the amount of $1,651,000.00; and

WHEREAS, the 2014-15 State Budget does not provide for General Fund support to the Board; and

WHEREAS, the State Agency and Contractor consider that it is in the best interest of the people of the State of California to maintain the program set forth in the 2014-15 State Budget, and to carry out this objective, State Agency and Contractor agree that the Contractor shall fund and the State Agency shall accept the cost of said budget in the amount of $1,651,000.00, as modified by subsequent adjustments pursuant to the Budget Act of 2014 and Executive Orders of the Governor and in accordance with Exhibit B;

NOW, THEREFORE, State Agency and Contractor hereby agree to the terms and conditions set forth in Exhibit B.

EXHIBIT B

The State Agency shall provide the program set forth in the 2014-15 State Budget within the total expenditure of $1,651,000.00 as modified by subsequent adjustments pursuant to the Budget Act of 2014 and Executive Orders of the Governor;

The Contractor shall pay the sum of $1,651,000.00 toward said 2014-15 State Budget, such payment to be made no later than August 30, 2014. Said funds will be used to pay California's share of the funding of the seven-state Colorado River Basin Salinity Control Forum, and related activities, the Lower Colorado River Multi-Species Conservation Program and salaries, benefits and operating expenses to support activities of the Colorado River Board.

In the event at the end of the 2014-15 FY there remains an unexpended balance of the sum set forth in the 2014-15 State Budget for the Colorado River Board plus any additional funds advanced to the State Agency, State Agency shall reimburse to Contractor a sum equal to the said balance.

Jun 02, 2014

LOWER COLORADO WATER SUPPLY REPORT

River Operations

Bureau of Reclamation

Questions: BCOOWaterops@usbr.gov
(702)293-8373
http://www.usbr.gov/lc/region/g4000/weekly.pdf

CURRENT STORAGE	PERCENT FULL	Content 1000 ac-ft (kaf)	Elev. (Feet above mean sea level)	7-Day Release (CFS)
LAKE POWELL	45%	10,850	3590.33	7,900
* LAKE MEAD	41%	10,627	1087.32	18,300
LAKE MOHAVE	95%	1,722	643.84	16,000
LAKE HAVASU	95%	591	448.56	10,800
TOTAL SYSTEM CONTENTS **	49%	29,140		
As of 06/01/2014				
SYSTEM CONTENT LAST YEAR	52%	31,215		

* Percent based on capacity of 26,120 kaf or elevation 1219.6 feet.

** TOTAL SYSTEM CONTENTS includes Upper & Lower Colorado River Reservoirs, less Lake Mead exclusive flood control space.

Salt/Verde System	54%	1,258		
Painted Rock Dam	0%	0	530.00	0
Alamo Dam	5%	52	1087.79	25

Forecasted Water Use for Calendar Year 2014 (as of 06/02/2014) (values in kaf)

NEVADA	273	
SOUTHERN NEVADA WATER SYSTEM		242
OTHERS		31
CALIFORNIA	4,161	
METROPOLITAN WATER DISTRICT OF CALIFORNIA		677
IRRIGATION DISTRICTS		3,373
OTHERS		111
ARIZONA	2,758	
CENTRAL ARIZONA PROJECT		1,529
OTHERS		1,229
TOTAL LOWER BASIN USE		7,192
DELIVERY TO MEXICO - 2014 (Mexico Scheduled Delivery + Preliminary Yearly Excess[1])		1,570

OTHER SIGNIFICANT INFORMATION

UNREGULATED INFLOW INTO LAKE POWELL - MAY MID-MONTH FORECAST DATED 05/19/2014

	MILLION ACRE-FEET	% of Normal
FORECASTED WATER YEAR 2014	10.833	100%
FORECASTED APRIL-JULY 2014	7.550	105%
APRIL OBSERVED INFLOW	0.964	91%
MAY INFLOW FORECAST	2.400	102%

	Upper Colorado Basin	Salt/Verde Basin
WATER YEAR 2014 PRECIP TO DATE	100% (23.6")	52% (9.7")
CURRENT BASIN SNOWPACK[2]	158% (3.3")	NA (NA)

[1] Delivery to Mexico forecasted yearly excess calculated using year-to-date observed and projected excess.

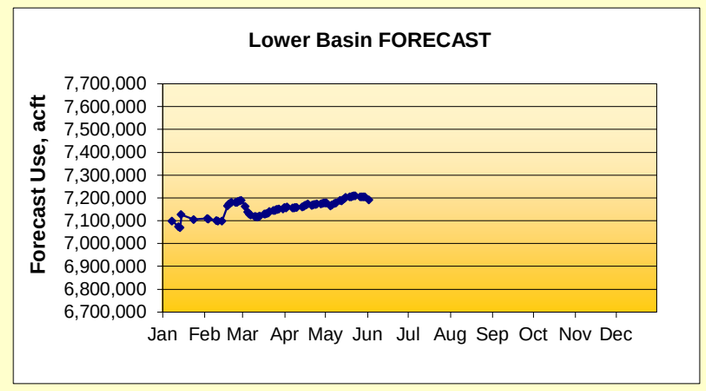
[2] This late in the water year, snowpack values may not provide a valid measure of conditions.

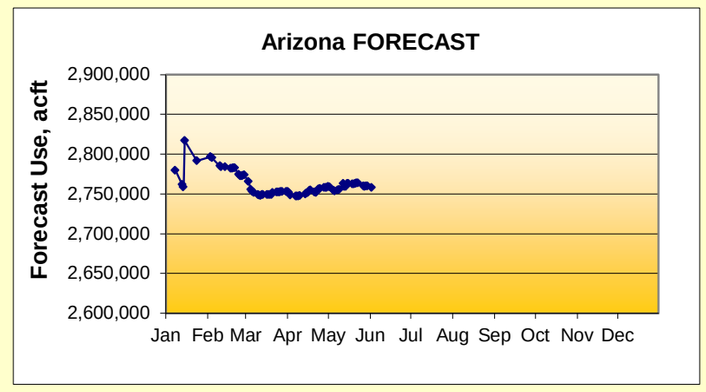
06/02/14 9:15 AM U.S. BUREAU OF RECLAMATION
LOWER COLORADO REGION
PROVISIONAL CY2014

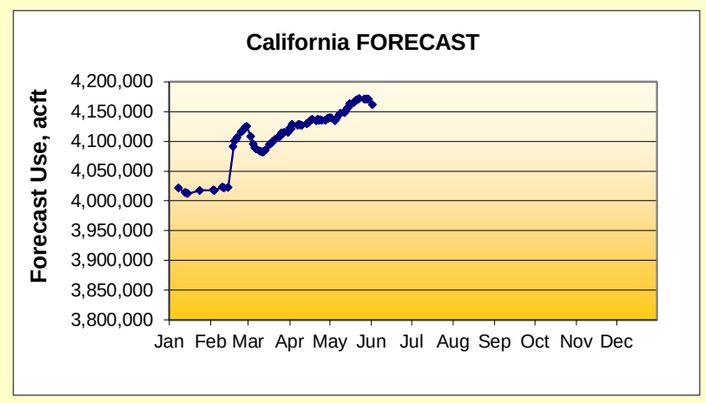
ARIZONA, CALIFORNIA, NEVADA, MEXICO
FORECAST OF END OF YEAR CONSUMPTIVE USE
FORECAST BASED ON USE TO DATE AND APPROVED ANNUAL WATER ORDERS /1
(ACRE-FEET)

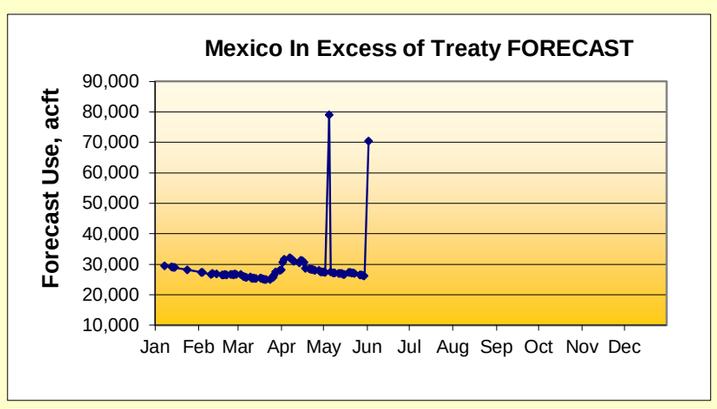
WATER USE SUMMARY	Use To Date CY2014	Forecast Use CY2014	Approved Use [2] CY2014	Excess to Approval CY2014
ARIZONA	1,266,325	2,757,781	2,799,672	-41,891
CALIFORNIA	1,933,983	4,161,284	4,020,262	141,022
NEVADA	82,450	272,760	300,000	-27,240
STATES TOTAL /3	3,282,758	7,191,825	7,119,934	71,891
MEXICO IN SATISFACTION OF TREATY (Including downward d	912,929	1,570,412	1,500,000	70,412
TO MEXICO AS SCHEDULED	859,934	1,500,000		
MEXICO IN EXCESS OF TREATY	52,995	70,412		
BYPASS PURSUANT TO MINUTE 242	56,005	132,972		
TOTAL LOWER BASIN & MEXICO	4,251,692	8,895,209		

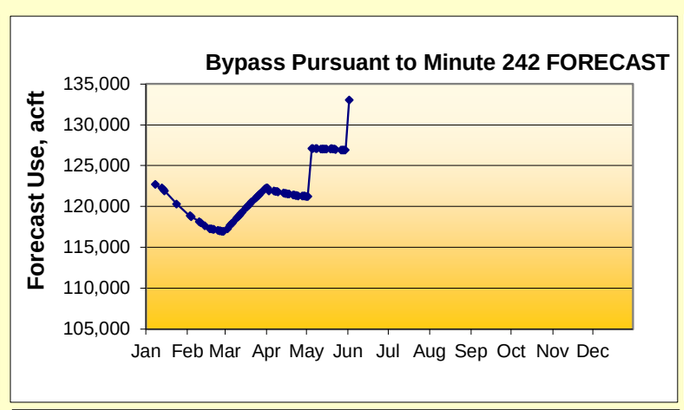
1/ Incorporates Jan-Apr USGS monthly data and 77 daily reporting stations which may be revised after provisional data reports are distributed by the USGS. Use to date estimated for users reporting monthly and annually.
2/ These values reflect adjusted apportionments. See Adjusted Apportionment calculation on eash state page.
3/ Includes unmeasured returns based on estimated consumptive use/diversion ratios by user from studies provided by Arizona Dept. of Water Resources, Colorado River Board of California, and Reclamation.

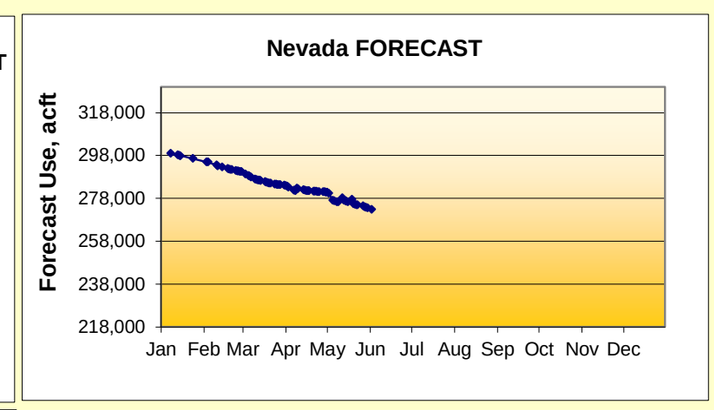


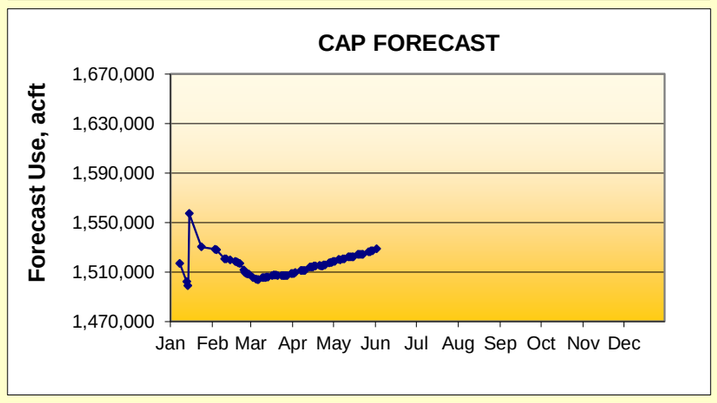


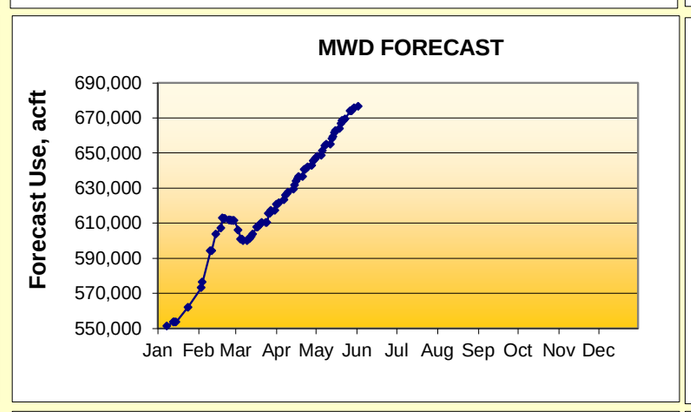


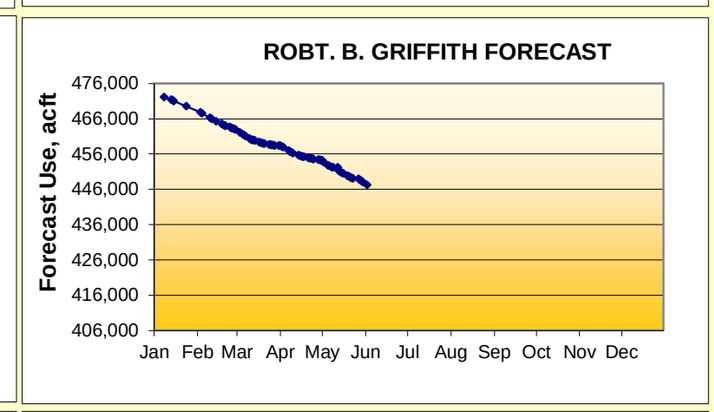


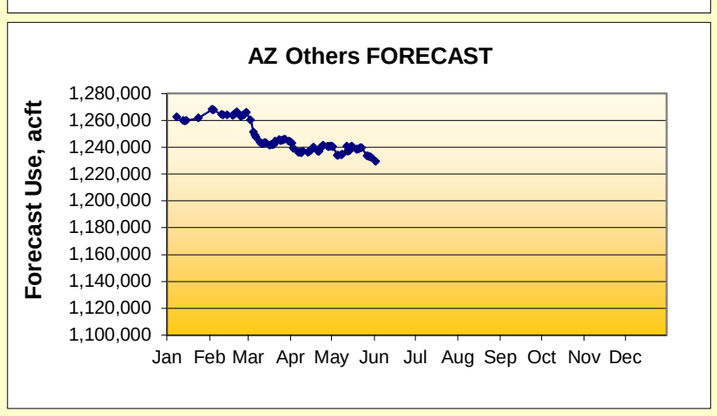


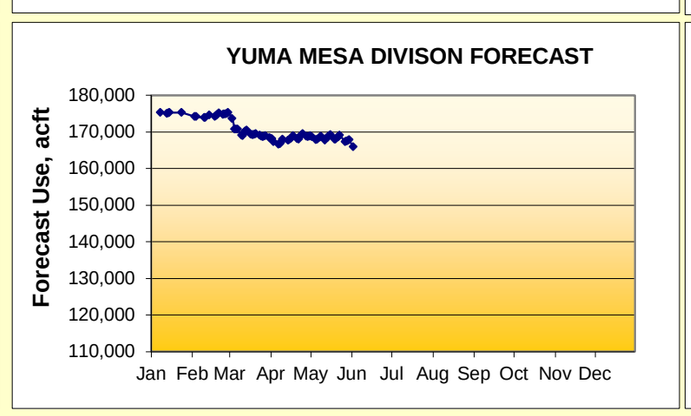


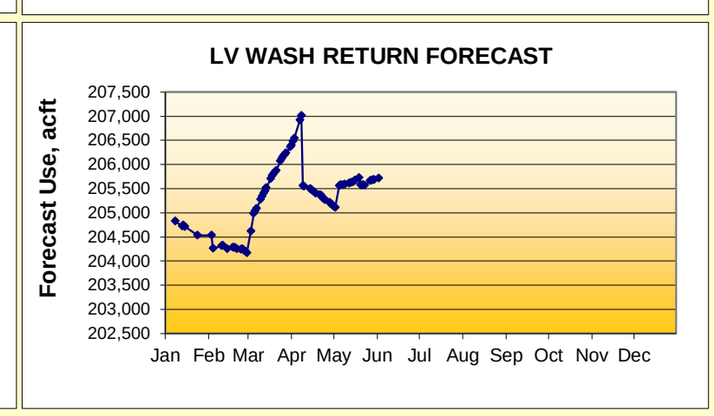


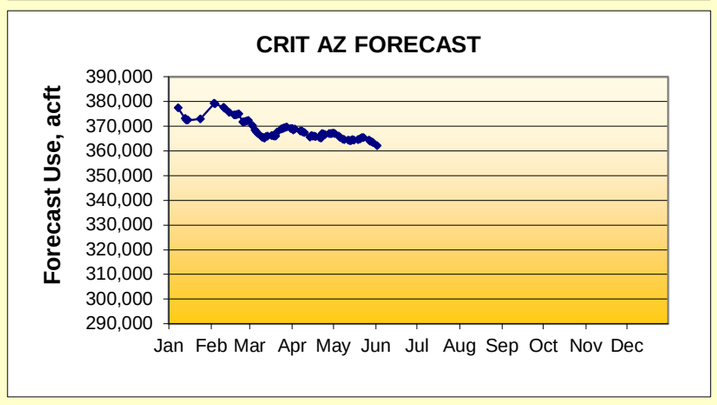


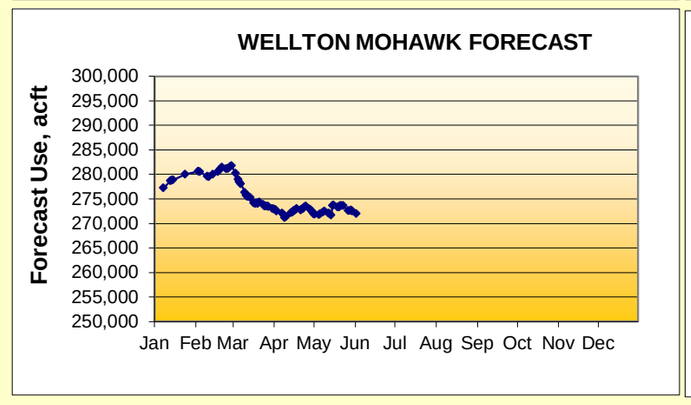


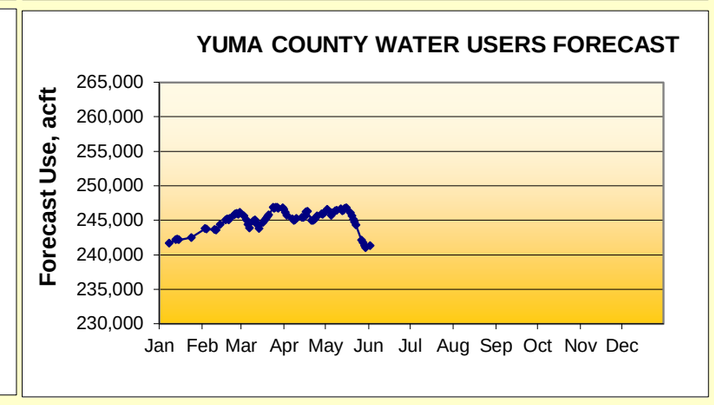












Graph notes: Jan 1 forecast use is scheduled use in accordance with the Annual Operating Plan's state entitlements, available unused entitlements, and over-run paybacks. A downward sloping line indicates use at a lower rate than scheduled, upward sloping is above schedule, and a flat line indicates a use rate equal to schedule. Lower priority users such as CAP, MWD, and Robt.B.Griffith may adjust use rates to meet state entitlements as higher priority use deviates from schedule. Abrupt changes in the forecast use line may be due to a diversion schedule change or monthly updating of provisional realtime diversions.

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U.S. BUREAU OF RECLAMATION
LOWER COLORADO REGION
PROVISIONAL CY2014

NOTE:
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CALIFORNIA WATER USERS
FORECAST OF END OF YEAR CONSUMPTIVE USE
FORECAST BASED ON USE TO DATE AND APPROVED ANNUAL WATER ORDERS
California Schedules and Approvals
Historic Use Records (Water Accounting Reports)

WATER USER	Use To Date CY2014	Forecast Use CY2014	Estimated Use CY2014	Excess to Estimated Use CY2014	Diversion To Date CY2014	Forecast Diversion CY2014	Approved Diversion CY2014	Excess To Approved Diversion CY2014
CALIFORNIA PUMPERS	871	1,958	1,958	---	1,557	3,500	3,500	0
FORT MOJAVE INDIAN RESERVATION, CA	3,720	8,001	8,996	---	6,917	14,870	16,720	-1,850
CITY OF NEEDLES (includes LCWSP use)	859	1,931	1,931	0	1,210	2,720	2,720	0
METROPOLITAN WATER DISTRICT	453,254	676,752	546,660	---	454,512	680,093	549,763	---
COLORADO RIVER INDIAN RESERVATION, CA	1,533	3,444	3,444	---	2,629	5,909	5,909	0
PALO VERDE IRRIGATION DISTRICT	178,699	447,796	454,108	---	392,246	994,796	994,500	**296**
YUMA PROJECT RESERVATION DIVISION	29,173	50,657	47,886	---	45,209	98,364	102,700	-4,336
YUMA PROJECT RESERVATION DIVISION - INDIAN UNIT	---	---	---	---	21,848	47,263	49,100	-1,837
YUMA PROJECT RESERVATION DIVISION - BARD UNIT	---	---	---	---	23,361	51,104	53,600	-2,496
YUMA ISLAND PUMPERS	2,213	4,974	4,974	---	4,005	9,001	9,001	0
FORT YUMA INDIAN RESERVATION - RANCH 5	300	674	675	---	543	1,221	1,221	0
IMPERIAL IRRIGATION DISTRICT	1,092,333	2,521,242	2,506,803	**14,439**	1,094,536	2,588,709	2,607,017	---
SALTON SEA SALINITY MANAGEMENT	32,996	94,552	90,000	**4,552**	34,371	98,285	93,451	---
COACHELLA VALLEY WATER DISTRICT	137,655	348,455	352,000	-3,545	142,940	363,523	366,370	---
OTHER LCWSP CONTRACTORS	289	650	650	---	452	1,016	1,016	0
CITY OF WINTERHAVEN	31	69	69	---	46	104	104	0
CHEMEHUEVI INDIAN RESERVATION	57	128	6,101	---	5,046	11,340	11,340	0
TOTAL CALIFORNIA	1,933,983	4,161,284			2,186,219	4,873,451	4,765,332	
FORT YUMA INDIAN RESERVATION /1	---	---	---	---	23,933	51,984	53,821	-1,837

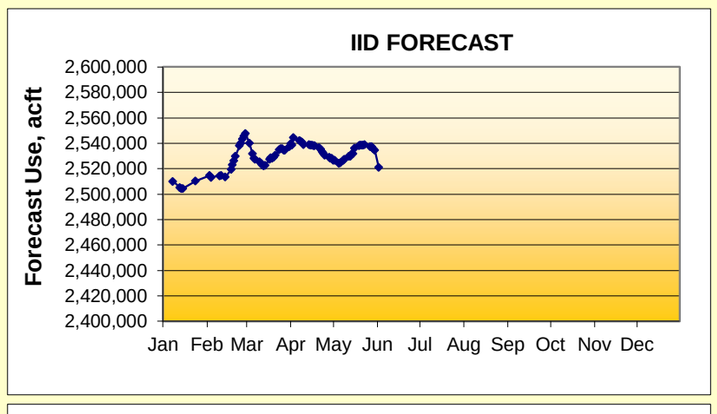
CALIFORNIA ADJUSTED APPORTIONMENT CALCULATION

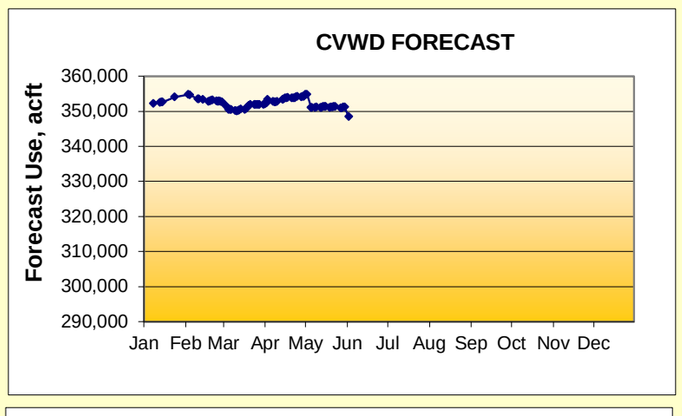
California Basic Apportionment	4,400,000
Payback of IOPP Overrun (IID)	-154,738
Intentionally Created Surplus Water (IID)	-25,000
Creation of Extraordinary Conservation ICS (MWD)	-200,000
Total State Adjusted Apportionment	4,020,262
Excess to Total State Adjusted Apportionment	141,022

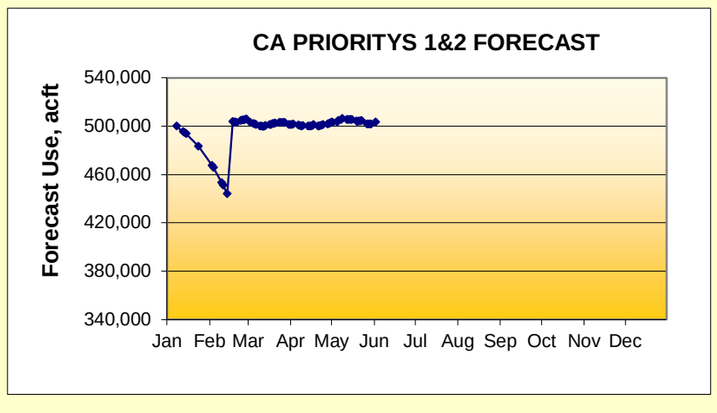
ISG ANNUAL TARGET COMPARISON CALCULATION

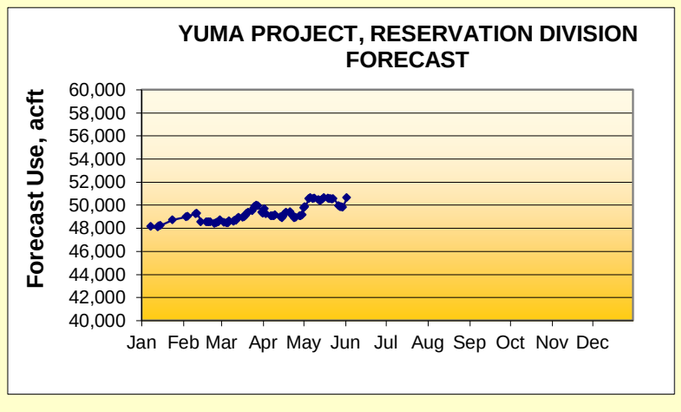
Priorities 1, 2, 3b Use (PVID+YPRD+Island+PVID Mesa)	503,427
MWD Adjustment	-83,427
Total California Agricultural Use (PVID+YPRD+Island+IID+CVWD)	3,373,124
California Agricultural Paybacks	-154,738
Misc. PPRs Covered by IID and CVWD	14,500
California ICS Creation (IID ICS)	25,000
Total Use for Target Comparison[2]	3,174,459
ISG Annual Target (Exhibit B)	3,462,000
Amount over/(under) ISG Annual Target	(287,541)

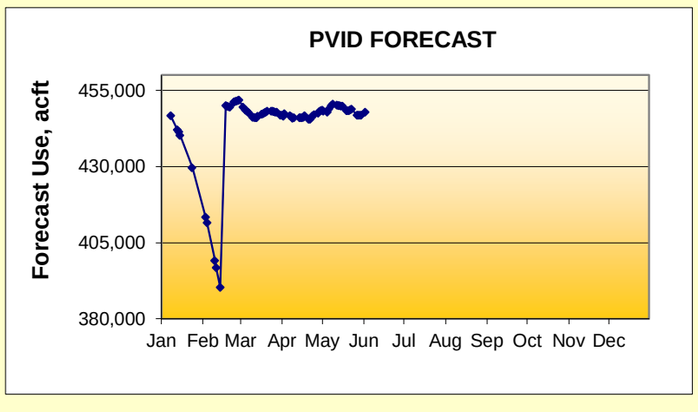
NOTES:
Ranch 5
Yuma Island assumed to be included in Priority 2.
Click on California Schedules and Approvals above for incoming diversion schedules and approvals.
1/ Fort Yuma Indian Reservation includes Yuma Project Reservation Division Indian Unit, Ranch 5, an estimate of domestic use and pumpers.
2/ Includes MWD Adjustment, Californnia Agricultural Use and Paybacks, IID-CVWD covered PPRs, and taking out the MWD-CVWD Exchange











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U.S. BUREAU OF RECLAMATION
LOWER COLORADO REGION
PROVISIONAL CY2014

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ARIZONA WATER USERS
FORECAST OF END OF YEAR CONSUMPTIVE USE
FORECAST BASED ON USE TO DATE AND APPROVED ANNUAL WATER ORDERS
Arizona Schedules and Approvals
Historic Use Records (Water Accounting Reports)

WATER USER	Use To Date CY2014	Forecast Use CY2014	Estimated Use CY2014	Excess to Estimated Use CY2014	Diversion To Date CY2014	Forecast Diversion CY2014	Approved Diversion CY2014	Excess to Approved Diversion CY2014
ARIZONA PUMPERS	7,940	17,842	17,842	---	12,285	27,607	27,607	0
LAKE MEAD NATIONAL RECREATION AREA, AZ	124	330	299	---	124	330	299	**31**
DAVIS DAM PROJECT	1	2	2	---	24	54	54	0
BULLHEAD CITY	2,230	7,575	8,522	---	3,327	11,305	12,720	-1,415
MOHAVE WATER CONSERVATION	220	494	494	---	328	738	738	0
BROOKE WATER LLC	94	212	212	---	141	317	317	0
MOHAVE VALLEY IDD	8,144	21,765	22,617	---	15,081	40,307	41,883	-1,576
FORT MOJAVE INDIAN RESERVATION, AZ	13,978	40,355	42,120	---	25,884	74,731	78,000	-3,269
GOLDEN SHORES WATER CONSERVATION DISTRICT	106	239	239	---	159	357	357	0
HAVASU NATIONAL WILDLIFE REFUGE	2,757	4,693	3,563	**1,130**	20,737	43,479	41,820	**1,659**
LAKE HAVASU CITY	3,722	9,427	9,083	---	5,000	14,202	14,650	-448
CENTRAL ARIZONA PROJECT	757,177	1,528,707		---	757,177	1,528,707		---
TOWN OF PARKER	132	356	362	-5	322	903	935	-32
COLORADO RIVER INDIAN RESERVATION, AZ	139,735	362,002	362,002	---	255,877	657,781	662,402	-4,621
EHRENBURG IMPROVEMENT ASSOCIATION	109	245	245	---	153	343	343	0
CIBOLA VALLEY IRRIGATION DISTRICT	7,543	16,951	16,951	---	10,549	23,707	23,707	0
CIBOLA NATIONAL WILDLIFE REFUGE	5,670	12,741	12,741	0	9,145	20,550	20,550	0
IMPERIAL NATIONAL WILDLIFE REFUGE	1,165	2,619	2,619	**0**	1,880	4,224	4,224	0
YUMA PROVING GROUND	194	537	504	---	194	537	504	**33**
GILA MONSTER FARMS	2,698	5,133	5,244	---	4,586	9,057	9,156	-99
WELLTON MOHAWK IDD	114,915	271,955	278,000	-6,045	167,735	413,702	424,997	---
CITY OF YUMA	6,151	16,052	16,451	-399	10,388	25,942	26,358	-416
MARINE CORPS AIR STATION YUMA	459	1,513	1,718	---	459	1,513	1,718	-205
UNION PACIFIC RAILROAD	15	32	29	---	20	48	48	0
YUMA MESA FRUIT GROWERS ASSOCIATION	0	0	0	---	0	0	0	0
UNIVERSITY OF ARIZONA	156	458	536	---	156	458	536	-78
YUMA UNION HIGH SCHOOL DISTRICT	90	183	150	---	109	234	200	**34**
YUMA MESA FRUIT COMPANY	0	0	0	---	0	0	0	0
DESERT LAWN MEMORIAL	6	39	46	---	9	56	66	-10
NORTH GILA VALLEY IDD	4,545	10,170	12,383	---	20,166	50,371	51,963	-1,592
YUMA IRRIGATION DISTRICT	18,656	40,938	42,991	---	32,375	74,341	76,600	-2,259
YUMA MESA IDD	41,996	114,824	119,077	---	75,270	208,013	217,488	-9,475
UNIT "B" IRRIGATION DISTRICT	7,805	20,711	20,409	---	11,417	32,594	33,450	-856
FORT YUMA INDIAN RESERVATION	622	1,397	1,397	---	957	2,150	2,150	0
YUMA COUNTY WATER USERS' ASSOCIATION	115,666	241,313	241,117	---	167,582	377,615	383,000	-5,385
COCOPAH INDIAN RESERVATION	1,395	5,722	6,598	---	1,406	8,010	10,055	-2,045
RECLAMATION-YUMA AREA OFFICE	110	247	247	---	110	247	247	0
RETURN FROM SOUTH GILA WELLS	0	0	0					
TOTAL ARIZONA	1,266,325	2,757,781	2,784,718		1,611,133	3,654,530	3,707,045	
CAP	757,177	1,528,707				1,528,707		
ALL OTHERS	509,148	1,229,074	1,246,811			2,125,823	2,169,142	
YUMA MESA DIVISION, GILA PROJECT	65,197	165,932	250,000	-84,068		332,725		

ARIZONA ADJUSTED APPORTIONMENT CALCULATION	
Arizona Basic Apportionment	2,800,000
Payback of IOPP overruns (Cocopah, Beattie Farms)	-328
System Conservation Created in Arizona (YMIDD)	
Intentionally Created Unused Apportionment for MWD	
Total State Adjusted Apportionment	2,799,672
Excess to Total State Adjusted Apportionment	-41,891
Estimated Allowable Use for CAP	1,572,669

NOTES:
Click on Arizona Schedules and Approvals above for incoming diversion schedules and approvals.

06/02/14

U.S. BUREAU OF RECLAMATION
LOWER COLORADO REGION
PROVISIONAL CY2014

NEVADA WATER USERS
FORECAST OF END OF YEAR CONSUMPTIVE USE
FORECAST BASED ON USE TO DATE AND APPROVED ANNUAL WATER ORDERS
Nevada Schedules and Approvals
Historic Use Records (Water Accounting Reports)

NOTE:
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WATER USER	Use To Date CY2014	Forecast Use CY2014	Estimated Use CY2014	Excess to Estimated Use CY2014	Diversion To Date CY2014	Forecast Diversion CY2014	Approved Diversion CY2014	Excess To Approved Diversion CY2014
ROBERT B. GRIFFITH WATER PROJECT (SNWS)	160,173	447,230	473,360	-26,130	160,173	447,230	473,360	-26,130
LAKE MEAD NATIONAL RECREATION AREA, NV.	247	714	792	---	247	714	792	-78
BASIC MANAGEMENT INC.	2,325	7,025	8,208	---	2,325	7,025	8,208	-1,183
CITY OF HENDERSON (BMI DELIVERY)	6,957	17,293	15,878	---	6,957	17,293	15,878	1,415
CITY OF BOULDER CITY AT HOOVER DAM	0	0	0	---	0	0	0	0
NEVADA STATE DEPT. OF FISH & GAME	4	12	12	0	182	387	300	---
PACIFIC COAST BUILDING PRODUCTS INC.	355	900	928	---	355	900	928	-28
BOULDER CANYON PROJECT	18	40	40	---	32	72	72	0
SOUTHERN CALIFORNIA EDISON	0	0	0	0	0	0	0	0
BIG BEND WATER DISTRICT	711	2,196	2,062	---	1,599	4,839	4,961	-122
BIG BEND CONSERVATION AREA	0	0			0	0		
FORT MOJAVE INDIAN TRIBE	802	3,062	3,685	---	1,199	4,572	5,500	-928
LAS VEGAS WASH RETURN FLOWS	-89,143	-205,712	-204,964	---				
TOTAL NEVADA	82,450	272,760	300,001	-27,241	173,070	483,032	509,999	-27,054
SOUTHERN NEVADA WATER SYSTEM (SNWS)	71,030	241,518				447,230		
ALL OTHERS	11,420	31,242				35,802		
NEVADA USES ABOVE HOOVER	80,936	267,502				473,621		
NEVADA USES BELOW HOOVER	1,514	5,258				9,411		

Tributary Conservation & Imported Intentionally Created Surplus	
Total Requested Tributary Conservation Intentionally Created Surplus	37,000
Total Requested Imported Conservation Intentionally Created Su	9,000
5% System Cut for Creation of Intentionally Created Surplus	-2,300
Total Intentionally Created Surplus Left in Lake Mead	43,700

NEVADA ADJUSTED APPORTIONMENT CALCULATION	
Nevada Basic Apportionment	300,000
Excess to Total State Adjusted Apportionment	-27,240

NOTES:
Click on Nevada Schedules and Approvals above for incoming diversion schedules and approvals.

COLORADO BASIN RIVER FORECAST CENTER

NATIONAL WEATHER SERVICE / NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

RIVERS SNOW WATER SUPPLY RESERVOIRS WEATHER HELP

Conditions Map Conditions List Snow Groups

Areas: CBRFC Upper Colorado Green San Juan Great Sevier Virgin Lower Colorado

Snow **Conditions**

Snow Conditions

Data Queried: Tue, 03 Jun 2014 12:00:02 -0600

Help, **Double Click Map to Zoom**, *Lat: 37.6 Lng: -110.5, Zoom: 6*

Search Points

Forecast Group

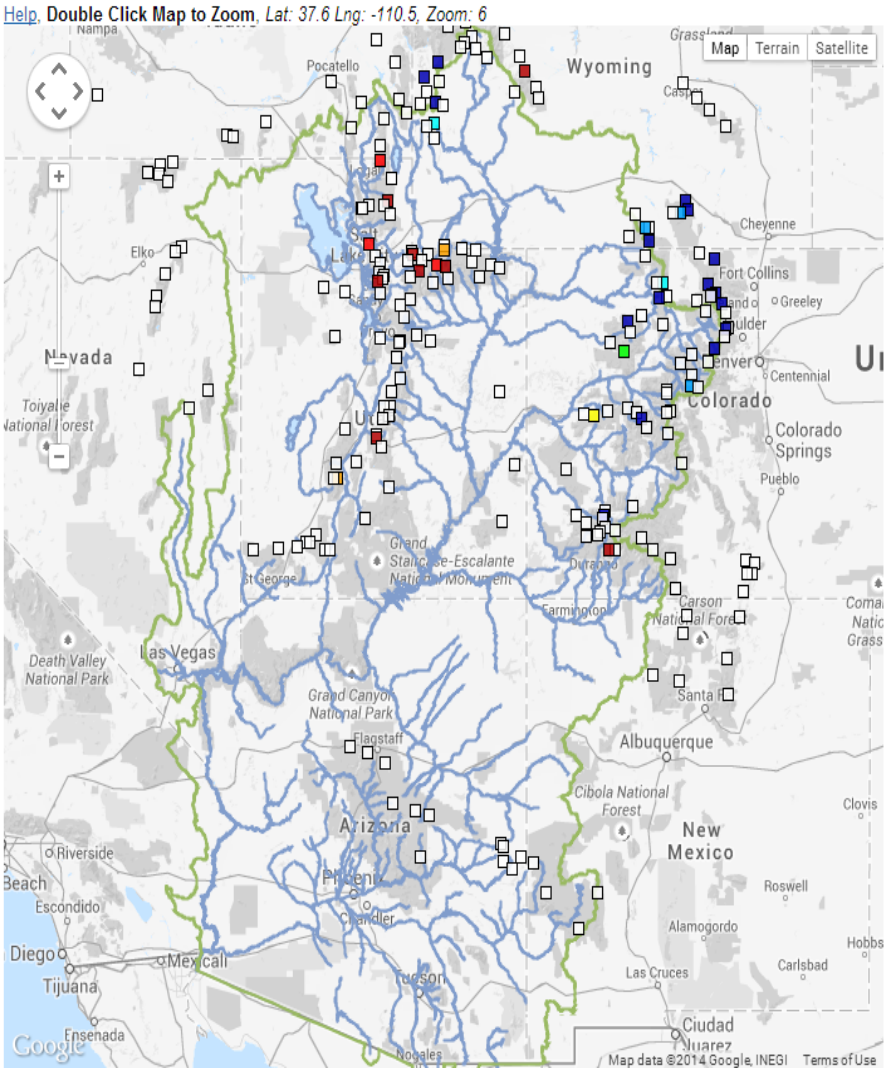
All Points

Overlays

- [x] Rivers
- [x] RFC Boundary
- [ ] Forecast Group
- [ ] Basin
- [ ] County
- [ ] County Warning Area
- [ ] Hydrologic Service Area

Snow Sites

- [ ] All
- [ ] No Data
- [ ] No Average
- [x] < 7000 ft
- [x] 7000-8000 ft
- [x] 8000-9000 ft
- [x] 9000-10000 ft
- [x] > 10000 ft



Snow

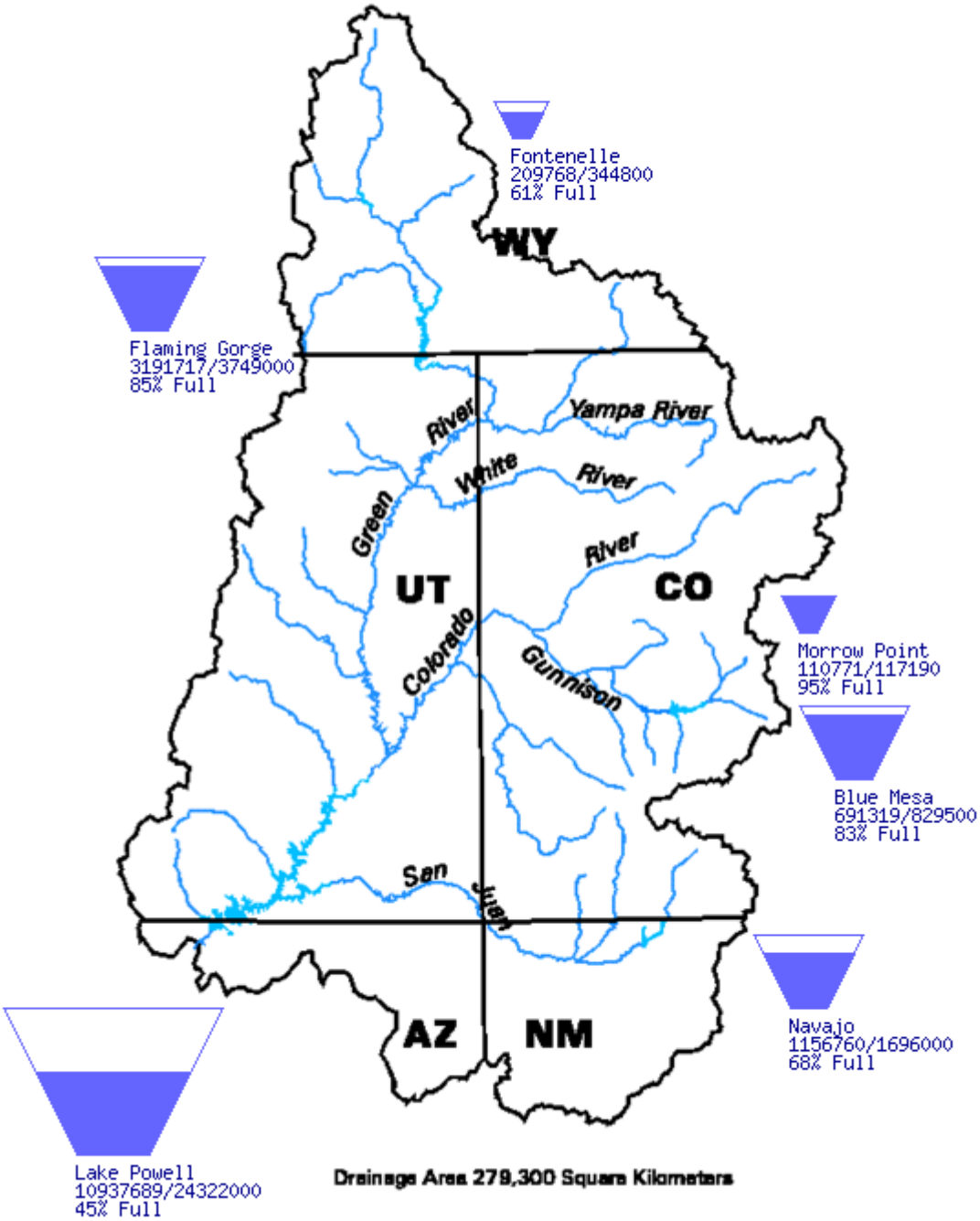
- Percentiles
- Percent Average
- Percent Median
- No Data
- < 25%
- 25-50%
- 50-75%
- 75-90%
- 90-110%
- 110-125%
- 125-150%
- 150-175%
- >175%

Upper Colorado Region Water Resources Group

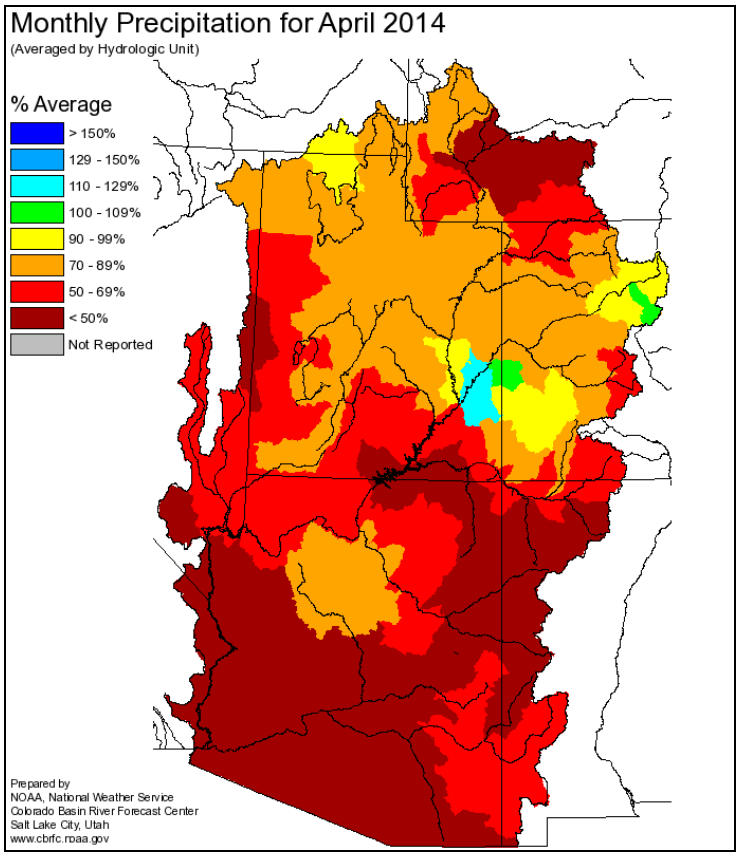
River Basin Tea-Cup Diagrams

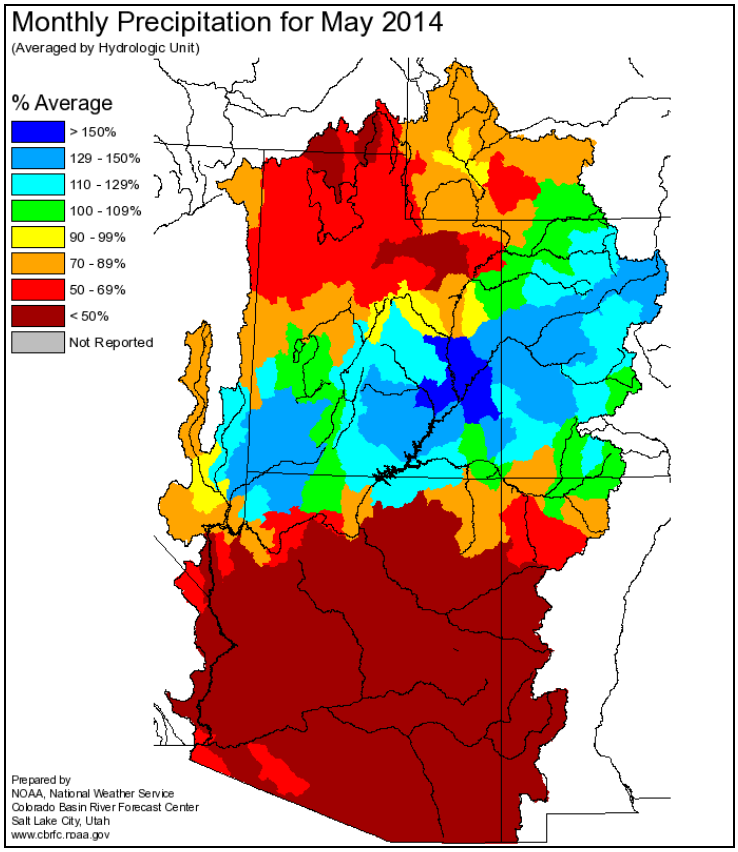
Data Current as of:
06/02/2014

Upper Colorado River Drainage Basin

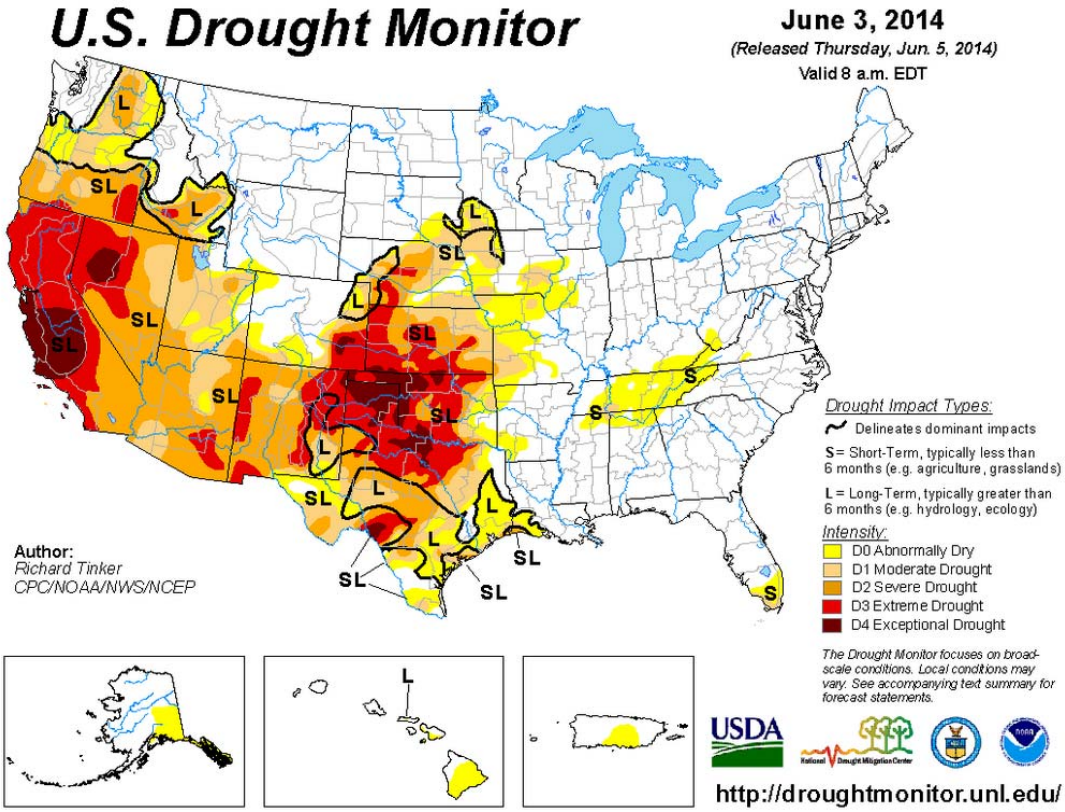


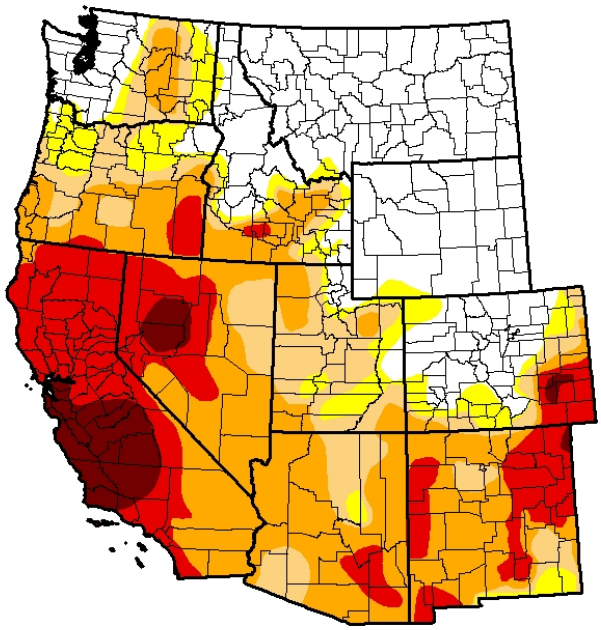
NOAA National Weather Service Monthly Precipitation Maps for April and May 2014





USDA United States Drought Monitor Map





U.S. Drought Monitor
West

June 3, 2014
(Released Thursday, Jun. 5, 2014)
Valid 8 a.m. EDT

Drought Conditions (Percent Area)

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	31.84	68.16	60.32	47.21	20.20	4.31
Last Week 5/27/2014	31.18	68.82	60.38	47.20	20.21	4.31
3 Months Ago 3/4/2014	22.79	77.21	59.41	41.01	15.27	3.61
Start of Calendar Year 12/31/2013	22.20	77.80	51.44	31.11	7.75	0.63
Start of Water Year 10/1/2013	25.25	74.75	58.96	34.18	5.57	0.63
One Year Ago 6/4/2013	16.44	83.56	72.90	46.70	14.65	5.98

Intensity:
- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

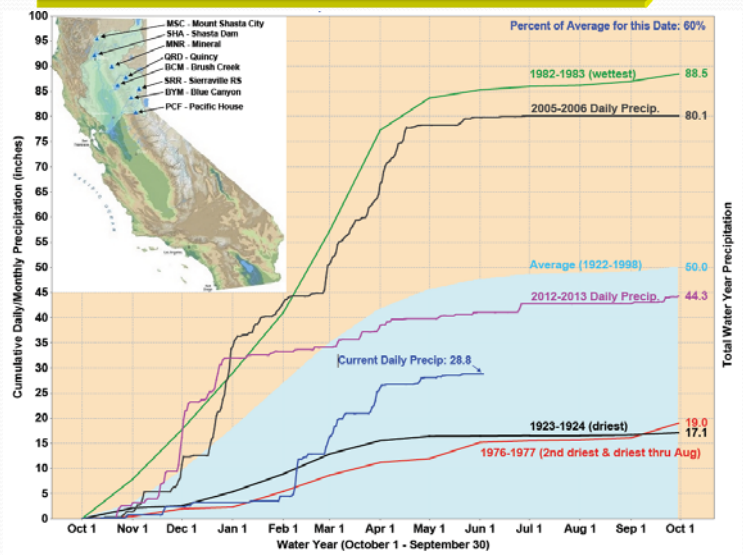
The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for forecast statements.

Author:
Richard Tinker
CPC/NOAA/NWS/NCEP

USDA

http://droughtmonitor.unl.edu/

Northern Sierra Precipitation-8 Station Index



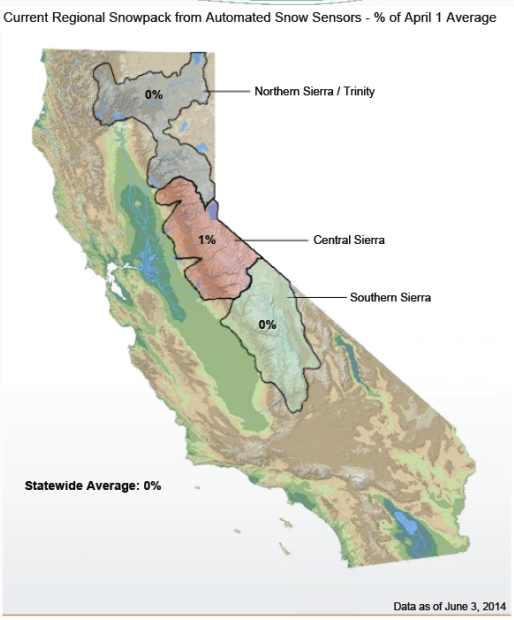
California Data Exchange Center
http://cdec.water.ca.gov/cgi-progs/products/PLOT_ESI.pdf

Statewide Summary of Water-Year Data

Water Year	Precipitation (233 Stations) % of avg.	Runoff (31 Rivers) % of avg.	Res. Storage (155 Reservoirs) % of avg.	Sacto. Riv. Run-off * (MAF)
2009-10	110	90	105	15.9
2010-11	135	145	130	15.1
2011-12	75	60	95	11.8
2012-13	80	60	80	11.9
Comparison of Water Year Data as of May 1				
2012-13	75	70	95	9.9
2013-14	55	35	70	5.5

* The Sacramento River Run-off is the sum of the unimpaired water year flow from the Sacramento River above Bend Bridge near Red Bluff, Feather River inflow to Oroville, Yuba River at Smartville, and American River inflow to Folsom. The average annual run-off is 18.4 MAF.

Snow Water Content



http://cdec.water.ca.gov/cdecapp/snowapp/sweq.action

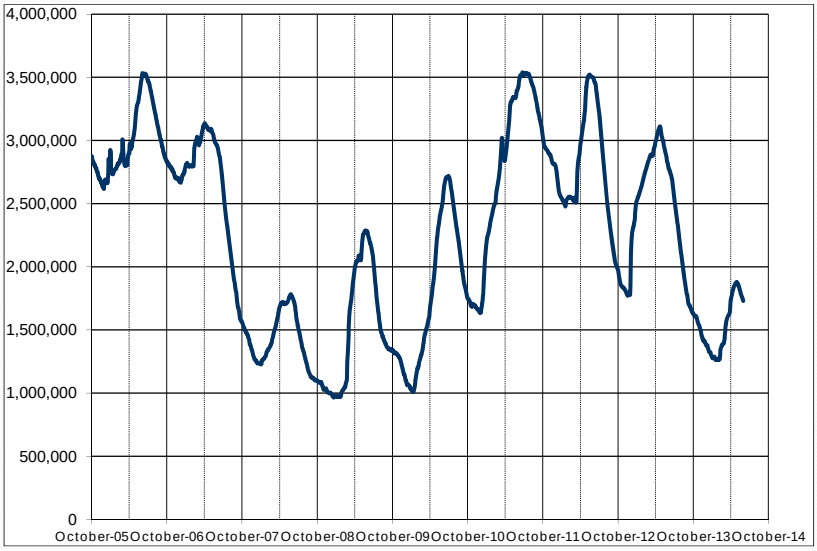
Comparison of SWP Water Storage

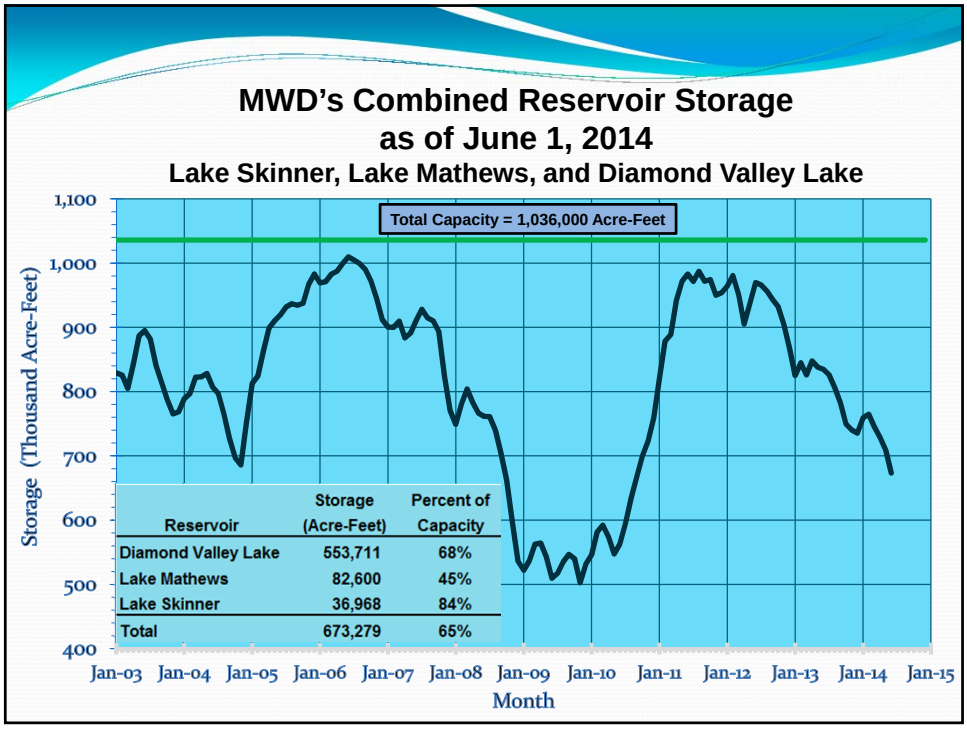
		2013 Storage (acre-feet)		2014 Storage (acre-feet)	
Reservoir	**Capacity**	**As of June 1**	**% of Cap.**	**As of June 1**	**% of Cap.**
Frenchman	55,475	36,382	66%	25,704	46%
Lake Davis	84,371	67,329	80%	53,937	64%
Antelope	22,564	22,676	100%	22,555	100%
Oroville	3,553,405	2,803,656	79%	1,728,656	49%
TOTAL North	3,715,815	2,930,043	79%	1,830,852	49%
Del Valle	39,914	40,241	101%	40,404	101%
San Luis (DWR)	1,062,180	314,208	30%	335,478	32%
Pyramid	169,901	165,485	97%	164,510	97%
Castaic	319,247	272,362	85%	201,169	63%
Silverwood	74,970	71,397	95%	70,233	94%
Perris	126,841	72,663	57%	61,303	48%
TOTAL South	1,793,053	936,356	52%	873,097	49%
TOTAL SWP	5,508,868	3,866,399	70%	2,703,949	49%

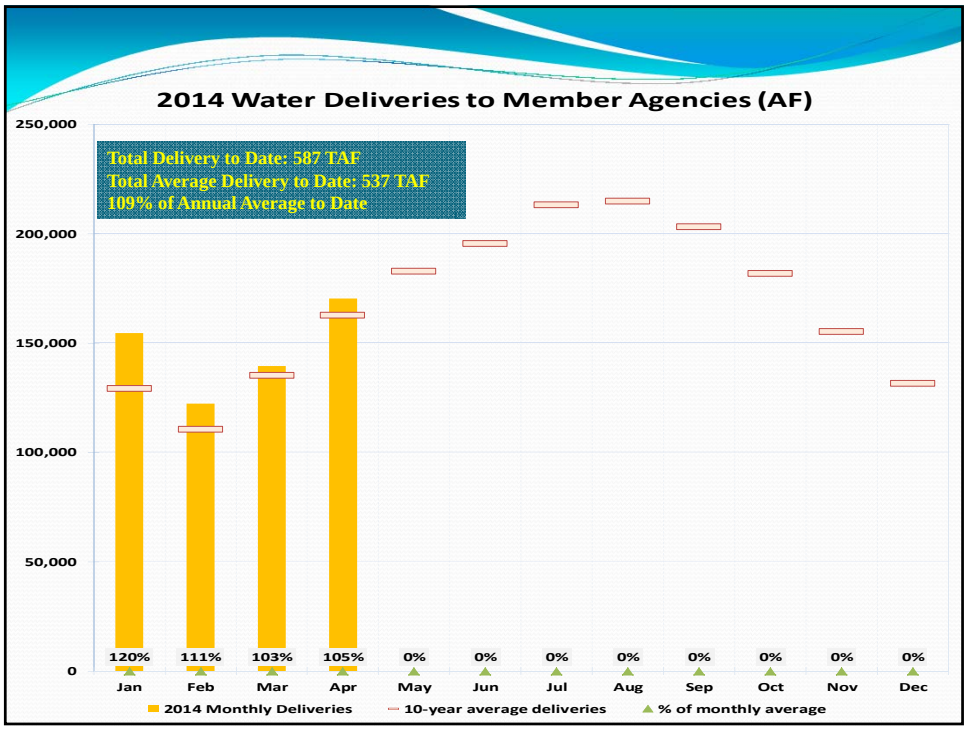
State Water Project Projected Deliveries:
On May 30, 2014, the Table-A allocations for 2014 changed from 5% to 20%

Oroville Storage (acre-feet)

October 1, 2005 – June 1, 2014

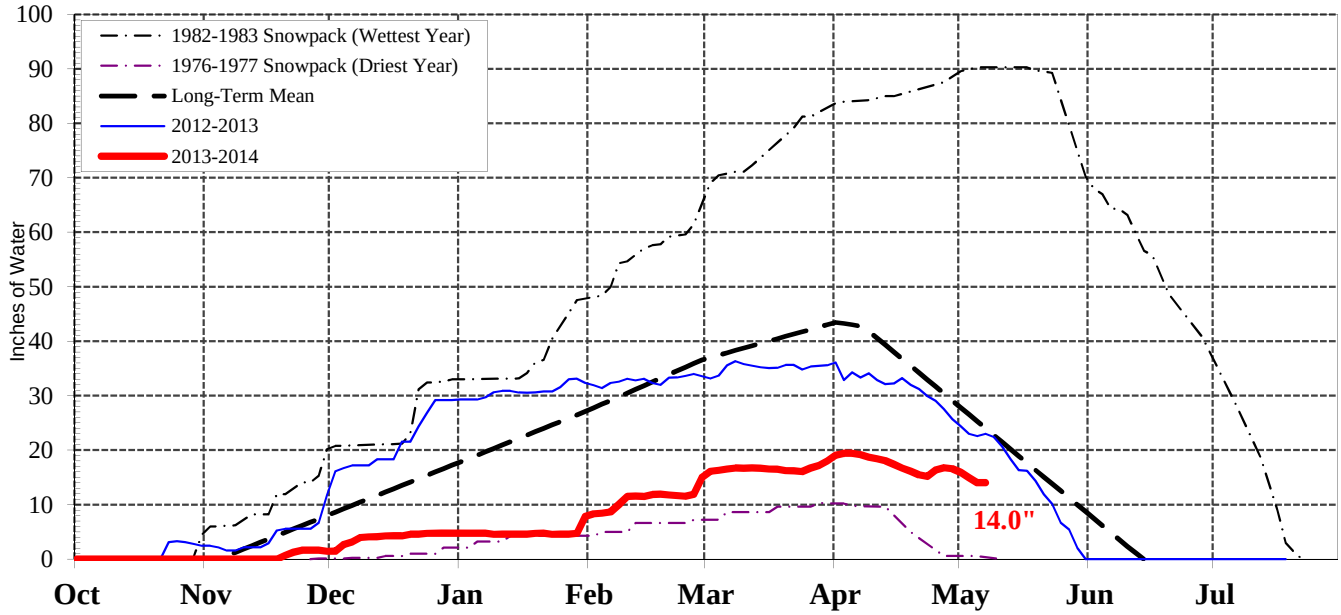



MWD's Combined Reservoir Storage
as of June 1, 2014
Lake Skinner, Lake Mathews, and Diamond Valley Lake
Total Capacity = 1,036,000 Acre-Feet
Storage (Thousand Acre-Feet)
1,100
1,000
900
800
700
600
500
400
Jan-03
Jan-04
Jan-05
Jan-06
Jan-07
Jan-08
Jan-09
Jan-10
Jan-11
Jan-12
Jan-13
Jan-14
Jan-15
Month
Reservoir | Storage (Acre-Feet) | Percent of Capacity
Diamond Valley Lake | 553,711 | 68%
Lake Mathews | 82,600 | 45%
Lake Skinner | 36,968 | 84%
Total | 673,279 | 65%

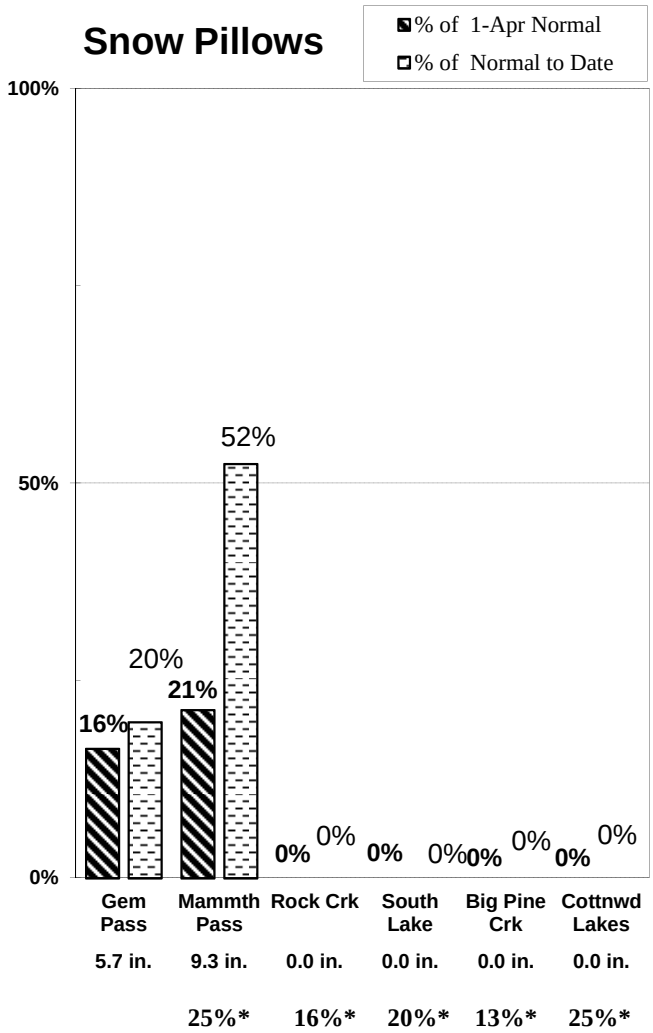

2014 Water Deliveries to Member Agencies (AF)
Total Delivery to Date: 587 TAF
Total Average Delivery to Date: 537 TAF
109% of Annual Average to Date
250,000
200,000
150,000
100,000
50,000
0
120%
111%
103%
105%
0%
0%
0%
0%
0%
0%
0%
0%
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec
2014 Monthly Deliveries
10-year average deliveries
% of monthly average

EASTERN SIERRA
CURRENT PRECIPITATION CONDITIONS
May 15, 2014

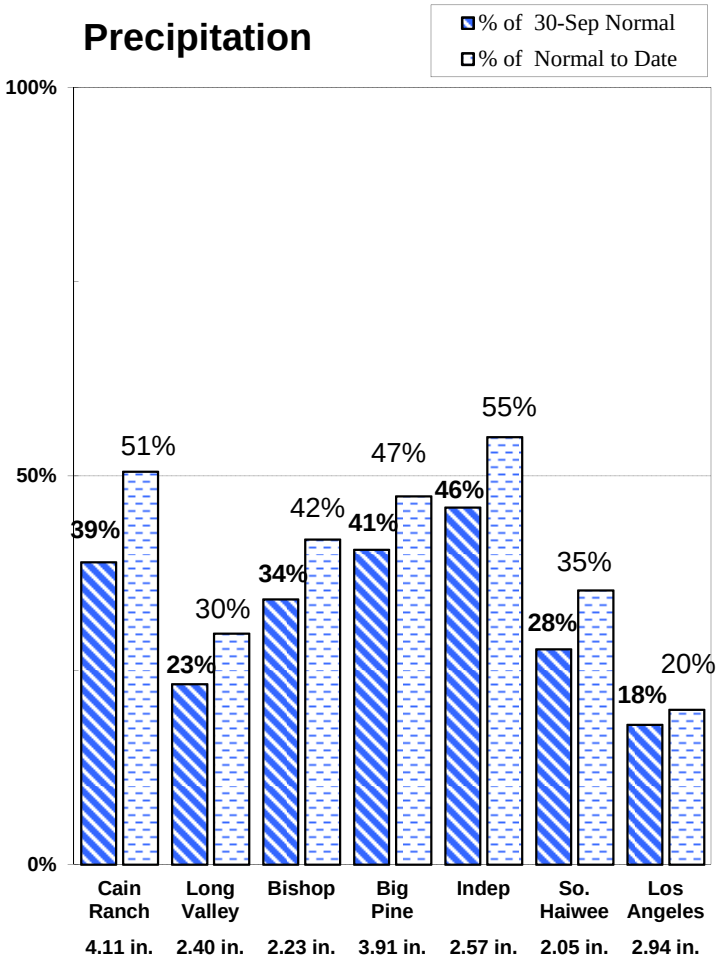
Mammoth Pass Snowpack



Snow Pillows



Precipitation



*** Individual snow pillow represents an area that contributes this percent of the total Owens River Basin runoff.**

Measurement as Inches Water Content; Precipitation totals are cumulative for water year beginning Oct 1

Weekly Drought Brief
Friday, May 30, 2014

CURRENT CONDITIONS

Recent Precipitation: Almost no precipitation fell from Friday, May 23 through Thursday, May 29:

- **Fresno:** .03". 4.92" since July 1, **44%** of normal by this date.

- **Hetch Hetchy**: No rain. 20.39" since July 1, **55%** of normal by this date.
- **Pollock Pines:** No rain. 28.00" since July 1, **52%** of normal by this date.
- **Folsom:** No rain. 16.13" since July 1, **71%** of normal by this date.
- **Los Angeles:** No rain. 5.83" since July 1, **39%** of normal by this date.
- **Modesto:** No rain. 7.00" since July 1, **54%** of normal by this date.
- **Oroville:** No rain. 19.56" since July 1, **63%** of normal this date.
- **Redding:** No rain. 21.20" since July 1, **63%** of normal by this date.
- **Sacramento:** No rain. 10.26" since July 1, **49%** of normal by this date.
- **Shasta:** No rain. 34.32" since July 1, **53%** of normal by this date.
- **Willits:** No rain. 34.52" since July 1, **69%** of normal by this date.

Near-term Outlook for Precipitation: Almost no precipitation is expected in the next week.

Fire Activity: CAL FIRE reports they have responded to **1,852** wildfires across the state since January 1, burning **15,284** acres. This year's fire activity is well above the year-to-date average of 1,074 wildfires for 8,983 acres. **200 new wildfires** were reported over the past week. The largest of this week's fires is the Hunters Fire near Bear Valley area of Mariposa County, which is burning **677** acres. While drought conditions have continued to lead to a significant increase in the number of wildfires, additional firefighters, fire engines and firefighting aircraft staffed earlier than normal have allowed CAL FIRE to contain these wildfires quickly in most cases.

Snow survey: The final manual snowpack survey of the season was conducted on Thursday (May 1) and showed California snowpack at 18% of normal. A more recent update using automated devices shows snowpack at **3%** of normal as of May 30.

Reservoir Levels (% capacity): Reservoir Levels as of May 29 remain low, including: Don Pedro 53%; Exchequer 30%; Folsom Lake 56%; Lake Oroville 49%; Millerton Lake 61%; New Melones 34%; Pine Flat 43%; San Luis 42%; Shasta 48%; and Trinity Lake 49%. An update of water levels at other smaller reservoirs is also available.

Vulnerable Water Systems: The California Department of Public Health is providing technical and funding assistance to help several communities facing near-term drinking water shortages and is monitoring water systems across the state to determine where else it can provide support. Updated information can be found at the CDPH Drinking Water Program website.

KEY ACTION ITEMS FROM THIS WEEK

- **Emergency water curtailments**: The State Water Board continues to curtail water use by junior water rights holders in several areas facing crucial water shortages. This week, curtailments were issued to junior-water rights holders in the Sacramento River watershed, the San Joaquin watershed, and the upper Russian River watershed. Last week, the Water Board issued curtailments to junior water rights holders on the Scott River. Water curtailments are issued when the amount of water flowing through a watershed is not enough to provide water to all holders of water rights in that watershed. Updated information on water curtailments can be found on the Water Board's curtailment webpage.

- **Bureau of Reclamation Continues Friant Dam water releases:** The US Bureau of Reclamation continues to release water from Friant Dam to meet its contract to the Bureau's San Joaquin Exchange Contractors. On Tuesday, a federal judge declined a requested legal injunction by the Friant Water Authority that would have halted the release of this water.

- **Water transfers**: To date, the state's Department of Water Resources has approved 7 water transfer agreements totaling 110,000 acre-feet of water, while the Bureau of Reclamation is in the process of approving approximately 80,000 acre feet of water transfers. The Governor's most recent Proclamation of Continued Emergency Drought called for continued expediting of these voluntary water transfers.

- **Emergency food aid**: The California Department of Social Services has provided over 46,000 boxes of food to date for counties impacted by the drought. This food aid, enabled by emergency drought legislation passed in March, is targeted toward residents economically impacted by the drought. The Department is working with local food banks to ensure that each food bank has a plan to outreach to those most impacted by the drought.

- **Water conservation efforts being assessed:** The State Water Board is surveying urban water agencies throughout the state to track their water conservation actions. The Governor's recent Proclamation of Continued Emergency Drought ordered the State Water Board to direct urban water suppliers that are not already implementing drought response plans to limit outdoor irrigation and prevent wasteful water practices. The Water Board will be hold a workshop on June 17 to assess current conservation efforts and will assess whether emergency regulations are necessary to ensure effective water conservation in the coming months.

- **Cost Data:** Cal OES continues to gather drought-related costs from state agencies and local governments, which is reported weekly to the Drought Taskforce.

- **Governor's Drought Task Force:** The Taskforce continues to meet daily to take actions that conserve water and coordinate state response to the drought.

Local Government

- **Local Emergency Proclamations**: A total of 46 local Emergency Proclamations have been received to date from city, county, and tribal governments, as well as special districts:
    - **Counties:** Glenn, Inyo, Kern, Kings, Lake, Madera, Mendocino, Merced, Modoc, Santa Barbara, San Luis Obispo, San Joaquin, Siskiyou, Sonoma, Shasta, Sutter, Tulare, Tuolumne, Yuba, and Mariposa.

- **Cities:** Brooktrails Township-Mendocino County, City of Willits-Mendocino County, City of St. Helena-Napa County, City of Calistoga-Napa County, City of American Canyon-Napa County, City of Santa Barbara-Santa Barbara County, City of Montague-Siskiyou County, City of Live Oak-Sutter County, and San Juan Bautista
- **Tribes:** Hoopa Valley Tribe in Humboldt County, Yurok Tribe in Del Norte County, Tule River Indian Tribe in Tulare County, Karuk Tribe in Siskiyou/Humboldt Counties, Sherwood Valley Pomo Indian Tribe, Yocha Dehe Wintun Nation
- **Special Districts:** Lake Don Pedro Community Services District, Placer County Water Agency (PCWA), Twain Harte Community Services District, Carpinteria Valley Water District, Sonoma County Water Agency, Meiners Oaks Water District, Mariposa Public Utility District, Montecito Water District, Goleta Water District, Tuolumne Utilities District, Nevada Irrigation District

- **Water Agency Conservation Efforts**: The Association of California Water Agencies has identified several hundred local water agencies that have implemented water conservation actions. These water agencies are responding to the drought by implementing conservation programs, which include voluntary calls for reduced water usage and mandatory restrictions where water shortages are worst.

- **County Drought Taskforces:** A total of 25 counties have established drought task forces to coordinate local drought response. These counties include: Butte, Kern, Kings, Lake, Madera, Mendocino, Merced, Modoc, Monterey, Nevada, Orange, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Siskiyou, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, and Yolo.

DROUGHT RELATED WEBSITES FOR MORE INFORMATION

Drought.CA.Gov: California's Drought Information Clearinghouse

State's Water Conservation Campaign, Save our Water
Local Government Drought Clearinghouse and Toolkit

California Department of Food and Agriculture, Drought information
California Department of Water Resources Current Water Conditions
California Data Exchange Center, Snow Pack/Water Levels
California State Water Resources Control Board, Water Rights, Drought Info and Actions
California Natural Resources Agency, Drought Info and Actions
California Department of Public Health, Drinking Water CDPH Drinking Water Program
California State Water Project, Information

U.S. Drought Monitor for current conditions throughout the region
U.S. Drought Portal, National Integrated Drought Information System (NIDIS)
National Weather Service Climate Predictor Center
USDA Drought Designations by County CA County Designations
USDA Disaster and Drought Assistance Information USDA Programs
Small Business Administration Disaster Support: www.sba.gov/disaster

OFFICE OF THE SECRETARY
U.S. Department of the Interior

www.doi.gov
News Release

Secretary Jewell Announces $20 Million in WaterSMART Funding for Water Reclamation and Reuse Projects in Drought Stricken California

Funding to help communities stretch water supplies, deal with climate change

05/15/2014

Contact us

WASHINGTON – As part of the Obama Administration's continued effort to bring relief to California communities suffering from the historic drought, Secretary of the Interior Sally Jewell announced today that the Bureau of Reclamation will invest $20 million in nine water reclamation and reuse projects.

"Climate change impacts are being felt across the landscape in California, but we can bring some relief to the drought stricken region through innovative efforts that will provide communities with a new source of water, support jobs, and stretch their limited water supplies," said Secretary Jewell. "The National Climate Assessment that was just released warns that heat, drought, and competition for water supplies will only increase in California with continued climate change, making water reclamation and reuse an important tool in our efforts to combat climate change."

The Department of the Interior's WaterSMART Program provided the funding for the California projects under Title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act. Through the Title XVI program, Interior's Bureau of Reclamation provides funding for projects that reclaim and reuse municipal, industrial, domestic or agricultural wastewater and naturally impaired ground or surface waters. The nine projects in California will receive cost-shared funding for planning, design and construction of their projects.

"Through WaterSMART, the Bureau of Reclamation helps local communities invest in modern water conservation and other infrastructure projects across the West," said Bureau of Reclamation Acting Commissioner Lowell Pimley. "Through comprehensive Title XVI efforts, we helped conserve nearly 390,000 acre feet of water in 2013 – enough to supply 1.5 million people with water for an entire year."

For complete descriptions on the awarded projects or to learn more about WaterSMART Title XVI funding, please click here.

The **Watsonville Area Water Recycling Program** in Watsonville, Calif., for example, will receive $3.9 million to reduce over-drafting of groundwater resources and subsequent seawater intrusion. The program recycles 4,000 acre-feet of effluent from the city's wastewater treatment plant each year that is blended with higher quality water to reduce salinity. The recycled water is then transported to agricultural users for irrigation purposes in the Pajaro Valley.

The **Victor Valley Subregional Water Reclamation Authority** will receive $3 million to assist construction of two sub-regional water reclamation plants to produce high quality effluent that will be used to recharge the groundwater basin and serve recycled water to customers in Hesperia and Apple Valley. The two plants will provide 4,480 acre-feet-per-year of recycled water with a build- out capacity of 17,920 acre-feet-per-year. This recycled water will replace groundwater and water imported through the State Water Project from the Sacramento-San Joaquin River Delta.

WaterSMART is the U.S. Department of the Interior's sustainable water initiative that uses the best available

science to improve water conservation and help water resource managers identify strategies to narrow the gap between supply and demand. Since its establishment in 2010, WaterSMART has provided more than $180 million in competitively awarded funding to non-federal partners, including tribes, water districts, municipalities and universities through WaterSMART Grants and the Title XVI Program.

Proposals were ranked through a published set of criteria in which points were awarded for projects that effectively stretch water supplies and contribute to water supply sustainability, address water quality concerns or benefit endangered species, incorporate the use of renewable energy or address energy efficiency, deliver water at a reasonable cost relative to other water supply options, and meet other program goals.

The WaterSMART funding announcement follows the May 6 White House release of the Third National Climate Assessment, which provides details on how climate change already is affecting every region of the United States—making innovative tools such as water reclamation and reuse essential in carrying out the President's Climate Action Plan.

The National Climate Assessment says:

> Increased heat and changes to rain and snowpack will send ripple effects throughout the [Southwest] region, affecting 56 million people – a population expected to increase to 94 million by 2050– and its critical agriculture sector. Severe and sustained drought will stress water sources, already over-utilized in many areas, forcing increasing competition among farmers, energy producers, urban dwellers, and ecosystems for the region's most precious resource. Climate changes pose challenges for an already parched region that is expected to get hotter and, in its southern half, significantly drier.

# # #

<< Previous
Deputy Secretary Connor Announces Next Implementation Schedule for $1.9 Billion Land Buy-Back Program

Next >>
Obama Administration Announces $6.7 Million to Hire Young People to Work on Public Lands Across the Nation

USDA Natural Resources Conservation Service

News Release

430 G St., #4164, Davis, CA 95616 • Phone: 530.792.5600 • Fax: 530.792.5790 • www.ca.nrcs.usda.gov

"Helping People Help the Land"

FOR IMMEDIATE RELEASE

CONTACT: Anita Brown (530) 792-5644
Alan Forkey (530) 792-5653

USDA Rolls Out Strong New Partnered Conservation Program
California's Bay-Delta Designated a Critical Conservation Area

DAVIS, Calif., May 27, 2014 – Agriculture Secretary Tom Vilsack announced a new era in American conservation efforts with an historic focus on public-private partnership. The USDA Natural Resources Conservation Service (NRCS) Regional Conservation Partnership Program (RCPP), created in the 2014 Farm Bill, will fund a number of conservation activities across California – with special funding available for California's Bay-Delta watershed.

"This is an entirely new approach to conservation," said Vilsack. "We're giving private companies, local communities, and other non-government partners a way to invest in what are essentially clean water start-up operations. By establishing new public-private partnerships, we can have an impact that's well beyond what the Federal government could accomplish on its own. These efforts keep our land resilient and water clean, and promote tremendous economic growth in agriculture, construction, tourism and outdoor recreation, and other industries."

RCPP will competitively award funds to conservation projects designed by local partners specifically for their region. Eligible partners include private companies, universities, non-profit organizations, local and tribal governments and others joining with agricultural and conservation organizations and producers to invest money, manpower and materials to their proposed initiatives. Through RCPP, partners propose conservation projects to improve soil health, water quality and water use efficiency, wildlife habitat, and other related natural resources on private lands. USDA's $1.2 billion in funding over the life of the five-year program can leverage an additional $1.2 billion from partners for a total of $2.4 billion for conservation. $400 million in USDA funding is available in the first year.

Secretary Vilsack announced California's Bay-Delta Watershed as one of eight critical conservation areas (CCA) that will compete for one third of the total available funds. This future work will build upon the more than $50 million invested by NRCS since 2011 to protect and improve natural resources in the Bay-Delta. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/programs/farmbill/rcpp/?cid=stelprdb1254127. Additionally the Colorado River Basin CCA will take in small portions of Imperial, Riverside and San Bernardino Counties. http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/programs/farmbill/rcpp/?cid=stelprdb1254126

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

The RCPP funds will be divided among three funding pools:

- 35 percent of total program funding will be directed to the eight critical conservation areas.
- 40 percent will be directed to regional or multi-state projects through a national competitive process.
- 25 percent will be directed to state-level projects through a competitive process established by NRCS state leaders.

RCPP replaces the former NRCS Agricultural Water Enhancement Program (AWEP) and Cooperative Conservation Partnership Initiative (CCPI) program. These two programs also worked with conservation partners to implement conservation using a landscape approach.

NRCS California has established eight natural resource priority concerns for which applications will be accepted. These are soil health, water quality, air quality, water quantity, habitat degradation for at-risk species, inefficient energy use, forest health, and rangeland health is now accepting proposals for this program. Pre-proposals are due July 14, and full proposal are due September 26. For more information on applying, visit http://www.grants.gov/web/grants/view-opportunity.html?oppId=256049

NRCS has provided leadership in a partnership effort to help America's private landowners and managers conserve their soil, water and other natural resources since 1935. For more information on NRCS, visit www.nrcs.usda.gov.

###

Programs

Farm Bill
- 2008 Farm Bill Archive
- Regional Conservation Partnership Program

Landscape Initiatives
Financial Assistance
Technical Assistance
Easements
Landscape Planning
Alphabetical Listing & Archive

Partner Testimonials

Hear from NRCS partners on forming successful partnerships.

Critical Conservation Areas

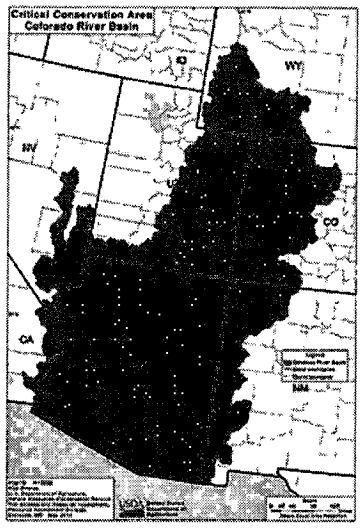
View the eight Critical Conservation Areas.

Colorado River Basin

Introduction

Irrigated agriculture is vitally important to the economy and quality of life in many areas of the Colorado River Basin. It also accounts for a significant share of the basin's existing water use, shared among 33 million people in the United States plus 3 million in Mexico. Faced with historic drought conditions and water supply pressures, farmers, ranchers, Indian tribes and other water users are in urgent need of accelerated conservation on working agricultural lands.

With the CCA designation, USDA will build on existing strong partnerships in the region to accelerate conservation efforts to address these internationally significant conservation issues. Working alongside a broad spectrum of partners who will bring additional investments for conservation, NRCS will focus assistance on promoting soil health, improving irrigation, addressing drought and helping to promote sustainable use of water resources throughout the basin.



CCA Priorities

Partners interested in submitting projects for consideration within the Colorado River Basin CCA should consider the overall goal of the CCA and priority resource concerns. CCA project proposals that align with NRCS priorities may rank higher in the evaluation of proposals.

Overall Goal: Improve water quality and quantity in the Colorado River Basin.

Resource Concern Priorities:

Water Quality Degradation: Excessive salts in surface waters and ground waters

Insufficient Water: Inefficient use of irrigation water

Soil Quality Degradation: Concentration of salts and other chemicals

Inadequate Habitat for Fish and Wildlife: Habitat degradation

More Information

For more information on the current status and trends of the U.S. agricultural sector and soil, water and related natural resources, visit the RCA Interactive Data Viewer and associated pages.

INTERNATIONAL BOUNDARY AND WATER COMMISSION U.S. AND MEXICO
BINATIONAL MEETING ON INTERNATIONAL PROJECTS ON THE COLORADO RIVER AND HYDROLOGY IN THE COLORADO RIVER BASIN

DATE: May 30, 2014
LOCATION: USIBWC Field Office - 2225 Dairy Mart Road, San Ysidro, CA
TIME: 09:00 AM – 2:00PM

DRAFT AGENDA

09:00 AM – 11:30 AM

1. **Binational Hydrology Group**
   - Welcome and Introductions
   - Hydrology and Basin Conditions Update
   - Commentary on the Communication Plan
   - Comments following 24-Month Study binational webinar and technical session
   - Comments on Mexico's Hydrology Proposal to be developed in Hydrology Group
   - Discussion on activities to be performed
   - Next Steps

11:30 AM – 12:00 PM

2. **AAC–PBO Connection (All American Canal Turnout)**
   - Progress in developing the descriptive document
   - U.S. comments on the draft Interconnection Project
   - Current status of permits required in the U.S.
   - Actions to Take

12:00 – 1:00 PM

3. **Conservation Pilot Project (Revolution Canal Lining)**
   - Preparation of final design (onset, duration, cost)
   - Construction of works (onset, duration, resource scheduling)

1:00 PM – 1:30 PM

Progress on Reconstruction of Irrigation District 014

- Current status of reconstruction of Irrigation District 014

01:30 PM – 2:00 PM

Binational Desalination Plant Project in Rosarito, B.C.

- Comments from the U.S. delegation
- Comments from the Mexican delegation

FOR PUBLICATION

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PEOPLE OF THE STATE OF CALIFORNIA EX REL. IMPERIAL COUNTY AIR POLLUTION CONTROL DISTRICT; IMPERIAL COUNTY AIR POLLUTION CONTROL DISTRICT; COUNTY OF IMPERIAL, *Plaintiffs-Appellants*, v. U.S. DEPARTMENT OF THE INTERIOR; SALLY JEWELL, Secretary of the United States Department of Interior; UNITED STATES BUREAU OF RECLAMATION; MICHAEL L. CONNOR, Commissioner, Bureau of Reclamation, *Defendants-Appellees*, IMPERIAL IRRIGATION DISTRICT; SAN DIEGO COUNTY WATER AUTHORITY; COACHELLA VALLEY WATER DISTRICT; METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, *Intervenor-Defendants–Appellees*.	No. 12-55856 D.C. No. 3:09-cv-02233-AJB-PCL

PEOPLE OF THE STATE OF CALIFORNIA EX REL. IMPERIAL COUNTY AIR POLLUTION CONTROL DISTRICT; IMPERIAL COUNTY AIR POLLUTION CONTROL DISTRICT; COUNTY OF IMPERIAL,
Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF THE INTERIOR; SALLY JEWELL, Secretary of the United States Department of Interior; UNITED STATES BUREAU OF RECLAMATION; MICHAEL L. CONNOR, Commissioner, Bureau of Reclamation,
Defendants,

And

IMPERIAL IRRIGATION DISTRICT; SAN DIEGO COUNTY WATER AUTHORITY; COACHELLA VALLEY WATER DISTRICT; METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,
Intervenor-Defendants–Appellants.

No. 12-55956

D.C. No. 3:09-cv-02233-AJB-PCL

OPINION

Appeal from the United States District Court
for the Southern District of California
Anthony J. Battaglia, District Judge, Presiding

Argued and Submitted
December 4, 2013—Pasadena, California

Filed May 19, 2014

Before: Paul J. Watford and Andrew D. Hurwitz, Circuit Judges, and William E. Smith, Chief District Judge.*

Opinion by Judge Hurwitz

SUMMARY**

Environmental Law

The panel affirmed the district court's summary judgment in favor of federal defendants and intervenor water districts in an action challenging an environmental impact statement prepared by the Secretary of the Interior that analyzed the effects of water transfer agreements on the Salton Sea in southern California.

The panel disagreed with the district court and held that the plaintiffs, Imperial County and the Imperial County Air Pollution Control District, had standing to sue. The panel nonetheless affirmed the judgment because the district court correctly found in the alternative that the Secretary of the

* The Honorable William E. Smith, Chief District Judge for the U.S. District Court of the District of Rhode Island, sitting by designation.

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

Interior did not violate the National Environmental Policy Act. The panel also held that the record below made plain that the Secretary did not violate the Clean Air Act.

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OPINION

HURWITZ, Circuit Judge:

The Salton Sea—the largest inland body of water in California—is a creature of accident. In 1905, water from the Colorado River breached an irrigation canal and flooded the then-dry Salton Basin. After the initial flood, irrigation runoff from the Imperial and Coachella Valleys—supplied by the Colorado River—sustained the Sea for more than a century. The Sea has become a unique attraction for water-based recreation in the harsh southern California desert.

The Sea's continued access to Colorado River water is in jeopardy. Over the last few decades Arizona and Nevada began to claim their full entitlements to the stream. California, which has long used more than its share, has been required to conserve. The affected California water districts ultimately agreed to transfer some Colorado River water from the Imperial Valley to urban areas in southern California. The Secretary of the Interior—who controls the delivery of River water—prepared an environmental impact statement ("EIS"), which, among other things, analyzed the effect of

these agreements on the Salton Sea. Despite noting some potentially serious environmental consequences, the Secretary eventually approved the agreements and implemented a new water delivery schedule.

Plaintiffs Imperial County and the Imperial County Air Pollution Control District (the "Air District") then sued the Secretary, claiming that the EIS did not comply with either the National Environmental Policy Act ("NEPA") or the Clean Air Act ("CAA"). The Imperial Irrigation District ("Imperial Irrigation"), San Diego County Water Authority ("San Diego Water"), Coachella Valley Water District ("Coachella"), and Metropolitan Water District of Southern California ("Metropolitan"), parties to the transfer agreements, intervened as defendants. The district court granted summary judgment to the defendants, finding that neither plaintiff had standing to sue. We disagree as to standing, but nonetheless affirm the judgment, because the district court correctly found in the alternative that the Secretary did not violate NEPA; the record below also makes plain that the Secretary did not violate the CAA.

I. Background

In 1922, the Colorado River basin states agreed to divide the River's waters among upper- and lower-basin states. Colorado River Compact, 70 Cong. Rec. 324 (1928). In 1928, Congress ratified the compact in the Boulder Canyon Project Act, Pub. L. No. 70-642, 45 Stat. 1057 (codified as amended at 43 U.S.C. §§ 617–619b). California, Arizona, and Nevada are the lower-basin states.

In 1931, various southern California irrigation and water districts agreed to a framework for distributing the State's

share of Colorado River water. This "Seven Party Agreement" created seven priorities and—unrealistically assuming an everlasting surplus of river water—divided 5.362 million acre feet per year ("mafy")[1] among the contracting districts. Priorities 1, 2, 3(a), 3(b), 6(a), and 6(b) in the Seven Party Agreement were either unquantified or shared among the districts. Agreement Requesting Apportionment of California's Share of the Waters of the Colorado River Among the Applicants in the State (Aug. 18, 1931), *available at* http://www.usbr.gov/lc/region/pao/pdfiles/ca7pty.pdf. The Secretary and the California districts then incorporated the terms of the Agreement into water delivery contracts. *See* 43 U.S.C. § 617d.

In 1963, the Supreme Court held that the Boulder Canyon Project Act limited California's Colorado River allotment to 4.4 mafy. *Arizona v. California*, 373 U.S. 546, 564–65 (1963). California could exceed this annual allowance only if (1) the other lower-basin states did not use their allotments or (2) there was actually surplus water. *Id.* at 560–61. The Secretary then promulgated regulations defining surplus. *See* 43 C.F.R. pt. 417.

The immediate effects of *Arizona v. California* on California were mitigated, however, because the Secretary designated water as "surplus" rather liberally, proclaiming surpluses when none truly existed. But eventually the Secretary made plain that it was time for California to live within its 4.4 mafy means. In response, the lower-basin states, the California water districts, and the Secretary considered methods to reduce California's dependence on Colorado River water.

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[1] An acre-foot of water covers an acre with one foot of water.

In 1998, Imperial Irrigation and San Diego Water reached a preliminary agreement under which Imperial Irrigation would conserve up to 300 thousand acre-feet per year ("kafy") of water, which would then be "transferred" to San Diego Water. In 1999, the Secretary and Imperial Irrigation initiated a joint NEPA and California Environmental Quality Act ("CEQA") study to consider the effects of the proposed transfer.[2] Imperial Irrigation District/San Diego County Water Authority Water Conservation and Transfer Project, 64 Fed. Reg. 52,102 (Sept. 27, 1999). This "Transfer EIS," which is not at issue today, considered off-river impacts of the transfer and possible environmental mitigation measures. *See id.*

In 1999, several water districts negotiated preliminary "Quantification Settlement Agreements" to reduce Colorado River water usage, to quantify and cap Priorities 3 and 6 in the Seven Party Agreement, and to authorize interdistrict transfers of conserved Imperial Irrigation water. These agreements would have limited Imperial Irrigation's Priority 3(a) to 3.1 mafy.

In 2001, prompted by the proposed Quantification Settlement Agreements, the Secretary announced that she would prepare the EIS challenged here (the "Implementation Agreement EIS") to consider the consequences of delivering a portion of Imperial Irrigation water at different diversion points on the Colorado River for use outside the Imperial Valley. *See* The Implementation Agreement for Secretarial Actions Associated With California Parties' Quantification Agreement, 66 Fed. Reg. 14,211 (Mar. 9, 2001). The Bureau

[2] CEQA is the California version of NEPA. *See* Cal. Pub. Res. Code §§ 21000–21177.

of Reclamation proposed studying (1) the on-river consequences of changing the points of delivery of up to 400 kafy, (2) the implementation of an overrun accounting and payback policy, and (3) potential biological conservation measures. *Id.* The Bureau filed a Draft Implementation Agreement EIS and Notice of Availability in January 2002. The comment period for the Draft Implementation Agreement EIS and the Draft Transfer EIS overlapped; after the comment period ended, the Secretary filed both final EISs in November 2002.

The Final Implementation Agreement EIS discussed, among other things, the on-river environmental impacts of altering Colorado River delivery diversion points, the indirect effects of changing the amount of water received by the California districts, and potential mitigation measures to reduce off-river ecological consequences. Because the various proposed mitigation agreements were discussed extensively in the Transfer EIS, the Final Implementation Agreement EIS also summarized and cross-referenced those findings.

In October 2003, the Secretary, Imperial Irrigation, San Diego Water, Metropolitan, and Coachella ratified several revised Quantification Settlement Agreements. Minor changes to the proposed master implementation agreement—the Colorado River Water Delivery Agreement ("CRWDA")—and to proposed environmental mitigation measures had not been discussed in the Final Implementation Agreement EIS. These included an amendment by various districts of water-transfer timelines, a modification by Imperial Irrigation and Coachella of their Salton Sea environmental mitigation plan, and a revision by the Bureau of Reclamation of its proposed species conservation plan after

consultation with the Fish and Wildlife Service. The Secretary prepared an environmental evaluation of the modifications, determined that a supplemental EIS was unnecessary, and issued a final record of decision.

This action, in which the plaintiffs allege violations of NEPA and the CAA, ensued. After the water districts intervened, all parties cross-moved for summary judgment. The district court granted summary judgment to the defendants, holding that plaintiffs lacked Article III standing and alternatively rejecting their NEPA (but not CAA) claims on the merits. This appeal followed.

II. Standing

A. Standard of Review

We review the district court's standing determination de novo. *La Asociacion de Trabajadores de Lake Forest v. City of Lake Forest*, 624 F.3d 1083, 1087 (9th Cir. 2010). At the summary judgment stage, plaintiffs must identify "specific facts" establishing standing. *Clapper v. Amnesty Int'l USA*, 133 S. Ct. 1138, 1149 (2013). We analyze standing claim by claim. *Lewis v. Casey*, 518 U.S. 343, 358 n.6 (1996). We need not address the standing of each plaintiff if we conclude that any plaintiff has standing. *Nat'l Ass'n of Optometrists & Opticians v. Brown*, 567 F.3d 521, 523 (9th Cir. 2009).

A plaintiff must show a "threat of suffering 'injury in fact' that is concrete and particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be fairly traceable to the challenged action of the defendant; and it must be likely that a favorable judicial decision will prevent or redress the injury." *Summers v. Earth Island Inst.*,

555 U.S. 488, 493 (2009). If, as here, plaintiffs are not the object of government action or inaction, "standing is not precluded, but it is ordinarily 'substantially more difficult' to establish." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 562 (1992) (quoting *Allen v. Wright*, 468 U.S. 737, 758 (1984)).

Plaintiffs assert that the Secretary violated NEPA and the Council on Environmental Quality ("CEQ") regulations interpreting it.[3] Plaintiffs also allege that the Secretary should have made a CAA conformity determination because the CRWDA will expand the Salton Sea's shoreline and thus increase airborne levels of particulate matter with a diameter of ten microns or less ("PM10"). Both alleged injuries are procedural. Thus, plaintiffs must establish that the Secretary violated procedural rules designed to protect their concrete interests, and that the challenged action will threaten those interests. *Citizens for Better Forestry v. U.S. Dep't of Agric.*, 341 F.3d 961, 969–70 (9th Cir. 2003). For procedural rights, "our inquiry into the imminence of the threatened harm is less demanding," *Hall v. Norton*, 266 F.3d 969, 976 (9th Cir. 2001), and "the causation and redressability requirements are relaxed," *Cantrell v. City of Long Beach*, 241 F.3d 674, 682 (9th Cir. 2001).

[3] The CEQ regulations interpreting NEPA are "entitled to substantial deference." *Andrus v. Sierra Club*, 442 U.S. 347, 358 (1979).

B. Procedural Injury

Plaintiffs established Article III standing.[4] First, they plainly alleged that the Secretary violated procedural rules. NEPA requires federal agencies to analyze the environmental impacts of their actions, *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 756–57 (2004), and the CAA mandates a "conformity determination" when an agency action increases pollutants in nonattainment regions, 42 U.S.C. § 7506(c)(1); 40 C.F.R. § 93.150. Imperial County argued, both to the agency and in the courts, that the Implementation Agreement EIS was insufficient under NEPA and the CAA.

Second, NEPA and the CAA were designed to protect the plaintiffs' interests. "NEPA provides that 'local agencies, which are authorized to develop and enforce environmental standards' may comment on the proposed federal action." *Douglas Cnty. v. Babbitt*, 48 F.3d 1495, 1501 (9th Cir. 1995) (quoting 42 U.S.C. § 4332(2)(c)(v)). Under California law, the Air District may sue on behalf of the State for a violation of the state implementation plan ("SIP"). Cal. Health & Safety Code § 41513. We have also held that the CAA conformity requirement was designed to protect a sub-state

[4] The Secretary does not challenge causation or redressability. In any event, "plaintiffs asserting procedural standing need not demonstrate that the ultimate outcome following proper procedures will benefit them." *Cantrell v. City of Long Beach*, 241 F.3d 674, 682 (9th Cir. 2001); *see also Natural Res. Def. Council v. Jewell*, No. 09-17661, 2014 WL 1465695, at *6 (9th Cir. Apr. 16, 2014) (en banc). Both prongs are met here. Moreover, because the Secretary does not dispute that plaintiffs' claims fall within the "zone of interests" of NEPA and the CAA, that issue is waived. *Laub v. U.S. Dep't of Interior*, 342 F.3d 1080, 1087 n.6 (9th Cir. 2003).

actor's interest in clean air. *City of Las Vegas v. FAA*, 570 F.3d 1109, 1114, 1117 (9th Cir. 2009).

Third, the challenged action threatens plaintiffs' concrete interests. A sub-state actor may "sue to protect its own 'proprietary interests' that might be 'congruent' with those of its citizens . . . ." *Sierra Forest Legacy v. Sherman*, 646 F.3d 1161, 1178 (9th Cir. 2011) (per curiam) (quoting *City of Sausalito v. O'Neill*, 386 F.3d 1186, 1197 (9th Cir. 2004)); *see also Douglas*, 48 F.3d at 1500–01. Those interests are "as varied" as the actors' "responsibilities, powers, and assets." *Sausalito*, 386 F.3d at 1197.

The Environmental Protection Agency ("EPA") has classified Imperial Valley as a serious nonattainment area for PM10. Plaintiffs provided declarations asserting that the CRWDA will increase PM10 levels, thus risking noncompliance with California's SIP. Failure to comply with the SIP risks a federal enforcement action, loss of highway funds, and mandatory emission offsets. *See* 42 U.S.C. § 7509. Such risks sufficiently demonstrate a threat to concrete interests. *Davis v. EPA*, 348 F.3d 772, 778 (9th Cir. 2003); *see also Nat'l Ass'n of Clean Air Agencies v. EPA*, 489 F.3d 1221, 1227–28 (D.C. Cir. 2007); *West Virginia v. EPA*, 362 F.3d 861, 868 (D.C. Cir. 2004).

Plaintiffs also adequately alleged that the Secretary's action will undermine land management in the Imperial Valley. A county's "concrete interests" in its "environment and in land management" can establish Article III standing. *City of Las Vegas*, 570 F.3d at 1114; *see also Sausalito*, 386 F.3d at 1198 (finding a concrete injury because a project would "result in a detrimental increase in traffic and crowds" and affect "municipal management and public safety

functions" (quoting *City of Sausalito v. O'Neill*, 211 F. Supp. 2d 1175, 1186 (N.D. Cal. 2002))) (internal quotation marks omitted); *City of Davis*, 521 F.2d at 671 (holding that declarations claiming that agency action "will frustrate the city's policy of 'controlled growth' and render its planning efforts to date obsolete" established a concrete injury).

C. Identification of Facts

The Secretary claims that plaintiffs did not identify sufficient facts below to establish standing. We reject the argument. Plaintiffs argued below that the CRWDA will increase PM10 levels and undermine the Air District's ability to enforce air quality regulations. Their summary judgment motion included a declaration from the Air Pollution Control Officer documenting that the CRWDA would increase fugitive dust by expanding the Salton Sea shoreline and thus undermine the Air District's ability to develop an attainment strategy and comply with its SIP.

Plaintiffs also identified specific facts in support of their claim that the Secretary's action will undermine Imperial County's land management. The Planning Director of the Imperial County Land Use Department declared that the project would frustrate the County's land-use plans, reduce its water supply, and impair its housing development. This declaration is no less "specific" than that of the city manager in *Sausalito*, 386 F.3d at 1198–99.

D. Mechanism of Review

The district court held that plaintiffs lacked standing to assert a CAA claim because they (1) "recharacterized" their

complaint as an enforcement action and (2) failed to identify an applicable waiver of sovereign immunity. We disagree.

Plaintiffs' claim arose from the Secretary's alleged CAA violations. The complaint stated that the Secretary's action will increase PM10 levels, interfere with the California SIP, exceed *de minimis* emission thresholds, and be regionally significant. Thus, the complaint asserted, the Secretary should have conducted a conformity determination. Plaintiffs made identical arguments in their summary judgment briefing.

Plaintiffs and the Secretary agree that the Administrative Procedure Act ("APA") is the proper statutory mechanism to challenge the Secretary's action. The APA creates a right of action for persons "suffering legal wrong," 5 U.S.C. § 702, but provides review only if "there is no other adequate remedy in a court . . . ." 5 U.S.C. § 704. Although we have not held that the APA authorizes judicial review when an air district asserts a federal conformity violation, we have assumed as much. *See S. Coast Air Quality Mgmt. Dist. v. FERC*, 621 F.3d 1085, 1099 (9th Cir. 2010); *Sierra Club v. EPA*, 346 F.3d 955, 961, *amended by* 352 F.3d 1186 (9th Cir. 2003); *Pub. Citizen v. Dep't of Transp.*, 316 F.3d 1002, 1020 (9th Cir. 2003), *rev'd on other grounds*, 541 U.S. 752 (2004). That assumption has solid statutory grounding—the CAA provides a cause of action against a federal agency which violates an "emission standard or limitation under this chapter . . . ." 42 U.S.C. § 7604(a)(1)(A). As relevant here, an "emission standard or limitation" is in turn defined as "a schedule or timetable of compliance, emission limitation, standard of performance or emission standard." § 7604(f)(1). The CAA clause requiring a conformity determination, however, is not a schedule or timetable of compliance, an

emission reduction, a standard of performance, or an emission limitation. *Conservation Law Found., Inc. v. Busey*, 79 F.3d 1250, 1257–60 (1st Cir. 1996), *cited with approval by Natural Res. Def. Council, Inc. v. S. Coast Air Quality Mgmt. Dist.*, 651 F.3d 1066, 1072 (9th Cir. 2011). Judicial review thus is available under the APA, as "no other adequate remedy" exists. *Id.* at 1260–62; *see also City of Olmsted Falls v. FAA*, 292 F.3d 261, 269 (D.C. Cir. 2002).

The APA also waives the Secretary's sovereign immunity. Plaintiffs requested declaratory and injunctive relief, and the Act abrogates immunity for actions seeking relief "other than money damages . . . ." 5 U.S.C. § 702; *see also Pub. Citizen*, 316 F.3d at 1032 (ordering equitable relief under the APA for a CAA conformity violation).

III. NEPA Claims

A. Standard of Review

"We review de novo the district court's determination that the EIS complies with NEPA and that no [supplemental EIS] was required." *Laguna Greenbelt, Inc. v. U.S. Dep't of Transp.*, 42 F.3d 517, 523 (9th Cir. 1994). Although the adequacy of an EIS is reviewed for "reasonableness" and the Secretary's no-supplemental-EIS determination for "abuse of discretion," the standards are the same. *Or. Natural Res. Council v. Lowe*, 109 F.3d 521, 528–29 (9th Cir. 1997). Under either rubric, we must decide whether the Secretary took a "hard look" at the environmental consequences of the proposed actions and reasonably evaluated the relevant facts. *Id.* at 526. For issues requiring agency expertise, "we must defer to 'the informed discretion of the responsible federal agencies.'" *Marsh v. Or. Natural Res. Council*, 490 U.S. 360,

377 (1989) (quoting *Kleppe v. Sierra Club*, 427 U.S. 390, 412 (1976)).

B. Tiering and Incorporation

CEQ regulations encourage agencies to "tier" with a previous EIS to "eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision . . . ." 40 C.F.R. § 1502.20. An agency may tier to a NEPA document, *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 997–98 (9th Cir. 2004), if the subsequent statement is either of "lesser scope" or a "statement or analysis at a later stage." 40 C.F.R. § 1508.28.

The CEQ regulations also require agencies to incorporate by reference NEPA and non-NEPA documents. 40 C.F.R. § 1502.21 ("Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action."); *see also* 40 C.F.R. § 1500.4(j) ("Agencies shall reduce excessive paperwork by . . . [i]ncorporating by reference (§ 1502.21)."). Any material incorporated by reference must be "cited in the statement," "briefly described," and "reasonably available for inspection by potentially interested persons," § 1502.21, but need not be physically attached to an EIS, 40 C.F.R. § 1502.18(a) (requiring an appendix to "[c]onsist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (§ 1502.21))"); Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026, 18,034 (Mar. 23, 1981) ("[T]he material which is incorporated by reference does not accompany the EIS.").

Plaintiffs argue that the Final Implementation Agreement EIS either (a) did not clarify whether it incorporated the state Transfer Environmental Impact Report ("EIR") or the federal Transfer EIS, or (b) improperly cited to a non-NEPA document—the Transfer EIR. They are incorrect on both counts.

The Secretary and Imperial Irrigation originally agreed to conduct a joint NEPA and state-CEQA study for the 1998 Imperial Irrigation/San Diego Water transfer agreement. Imperial Irrigation, however, later prepared a separate study in June 2002 (the "Transfer EIR") because CEQA has slightly different reporting requirements than NEPA. The Bureau of Reclamation prepared its own Transfer EIS in November 2002 (the "Final Transfer EIS").[5] The Secretary then approved a Final Transfer EIS.[6] Imperial Irrigation District Water Conservation and Transfer Project, California, 67 Fed. Reg. 68,165 (Nov. 8, 2002).

The Final Implementation Agreement EIS clearly distinguished between the Transfer EIR and the Transfer EIS, explaining that "[i]n order to comply with CEQ regulations . . . Reclamation is preparing a fully integrated, stand alone Final EIR/EIS," and incorporating the Transfer EIS by reference. As plaintiffs note, the Secretary, in an apparent

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[5] The Final Transfer EIS incorporated errata revisions, excluded analysis of Habitat Conservation Plan Approach 1, and estimated the Salton Sea's exposed shoreline for Alternatives 2 and 3.

[6] The Secretary's record of decision for the Implementation Agreement EIS stated that "this ROD is not based on [the Transfer EIR/EIS]." That statement is consistent with the Secretary's position that she incorporated the Transfer EIS's discussion of the Salton Sea impacts but did not "tier to" it.

effort to avoid confusion, cited to the Transfer EIR (CEQA version) and the Transfer EIS (NEPA version) as if they were a single document in the Final Implementation Agreement EIS. But, plaintiffs fail to identify relevant material discussed solely in the Transfer EIR or significant information excluded from the Transfer EIS.[7] *See Or. Envtl. Council v. Kunzman*, 817 F.2d 484, 492 (9th Cir. 1987) ("The reviewing court may not 'fly speck' an EIS and hold it insufficient on the basis of inconsequential, technical deficiencies.") (quoting *Nw. Indian Cemetery Protective Ass'n v. Peterson*, 795 F.2d 688, 695 (9th Cir. 1986)). And although the Secretary once cited the Transfer EIR and Transfer EIS as a single document in her district court briefing, that minor misstatement does not prejudice our review.[8]

Plaintiffs next argue that the Secretary improperly tiered to "19 non-NEPA documents," citing to ten pages in the Implementation Agreement EIS. These "non-NEPA documents" are federal statutes, state environmental impact reviews, and EISs from other Colorado River projects; they are cited to provide a "road map" of Colorado River programs, not to sidestep the Secretary's NEPA obligations.

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[7] Plaintiffs note that the Transfer EIR and Transfer EIS have different assessments of the impact that changes in water delivery will have on the Salton Sea's shoreline. But plaintiffs fail to identify any flaw in the Transfer EIS assessment.

[8] Because the Implementation Agreement EIS incorporated only the Transfer EIS, we need not consider the Transfer EIR's alleged shortcomings. Plaintiffs also argue that the Secretary never made a record of decision for the Transfer EIS. This argument was waived, as it was not made below or in the opening brief. *Alaska Ctr. for the Env't v. U.S. Forest Serv.*, 189 F.3d 851, 858 n.4 (9th Cir. 1999). Moreover, any such failure would not prevent the Secretary from incorporating the Transfer EIS by reference into the Implementation Agreement EIS.

The Implementation Agreement EIS at most incorporated these documents, which are properly "cited in the statement," "briefly described," and "reasonably available for inspection by potentially interested persons." § 1502.21

More specifically, plaintiffs argue that the Final Implementation Agreement EIS cited to the Coachella Valley Water Management Plan Program EIR, which was not released for public review during the comment period for the Implementation Agreement EIS.[9] However, a final EIS may include information not cited in a draft; recirculation is required only if there is significant new information or circumstances relating to the proposed action. *Westlands Water Dist. v. U.S. Dep't of Interior*, 376 F.3d 853, 873 (9th Cir. 2004) (citing 40 C.F.R. § 1502.9(c)(1)(ii)). The Secretary cited the Coachella Valley Water Management Program EIR only to respond to comments from the Bureau of Indian Affairs and to further discuss secondary environmental consequences of the CRWDA, not to identify a new proposal or to describe previously unconsidered environmental consequences. Plaintiffs' interpretation of NEPA would require an agency to submit a new draft EIS or supplemental EIS for any update, regardless of its

[9] Plaintiffs also assert that a number of cited documents were not publicly available. The assertion is belied by the public record. *See* Imperial Irrigation District Water Conservation and Transfer Project, 67 Fed. Reg. at 68,165; Imperial Irrigation District Water Conservation and Transfer Project, Draft Habitat Conservation Plan, California, 67 Fed. Reg. 3732 (Jan 25, 2002); Quantification Settlement Agreement Final PEIR Preface at 2 (June 2002) ("The Draft PEIR was released for public review on January 30, 2002."); Coachella Valley Final Water Management Plan § 1-5 (Sept. 2002) ("The draft PEIR was released to all interested public agencies and individuals for review and comment for a 45-day review period that concluded on August 9, 2002.").

significance. Every draft EIS would then be, in effect, a final EIS.

Plaintiffs next argue that the Implementation Agreement EIS improperly stated that it "tiers to and incorporates by reference" the Quantification Settlement Agreement Program EIR and the Coachella Valley Water District Management Plan Program EIR. The Secretary would indeed have erred if she had tiered to these documents, as they are state environmental reports, not NEPA documents. *Klamath-Siskiyou*, 387 F.3d at 997–98. However, the Secretary's "tiers to" language is a scrivener's error. The non-NEPA documents were plainly incorporated by reference, and accidently referring to a document as "tiered to and incorporated" rather than just "incorporated" is harmless. *See Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 659 (2007) (declining to remand when an agency made a "stray statement, which could have had no effect on the underlying agency action being challenged").

Finally, Plaintiffs argue that *Pacific Rivers Council v. United States Forest Service*, 689 F.3d 1012 (9th Cir. 2012), requires all discussion of environmental impacts to be in the text of an EIS, rather than incorporated by reference. Plaintiffs also contend that the Secretary too heavily incorporated indirect impact analysis when discussing the Salton Sea. Our *Pacific Rivers* opinion, however, was vacated as moot, 133 S. Ct. 2843 (2013), and, in any event, provides little help. The court there determined that a Forest Service supplemental EIS failed to discuss the impact of logging on individual species of fish. *Pac. Rivers*, 689 F.3d at 1029–30. The Forest Service attempted to "save" the supplemental EIS by claiming that it had incorporated two biological assessments which discussed these impacts. Those

assessments, however, were not "described and analyzed in the text" of the supplemental EIS, contained "no analysis . . . of the manner or degree to which the alternatives may have affected these fish," and "applied to only one group of fish species." *Id.* at 1031–32. Unlike the Forest Service's supplemental EIS in *Pacific Rivers*, the text of the Implementation Agreement EIS extensively considered the environmental effects that the CRWDA will have on the Salton Sea.

C. Segmenting

Plaintiffs next argue that the Secretary improperly "segmented" the Quantification Settlement Agreements by preparing two EISs. "Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement." 40 C.F.R. § 1502.4(a). To prevail, plaintiffs must show that the Secretary acted arbitrarily by not preparing a single EIS. *Kleppe*, 427 U.S. at 412 ("Resolving these issues requires a high level of technical expertise and is properly left to the informed discretion of the responsible federal agencies."). "We apply an 'independent utility' test to determine whether multiple actions are so connected as to mandate consideration in a single EIS. The crux of the test is whether 'each of two projects would have taken place with or without the other and thus had independent utility.'" *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 969 (9th Cir. 2006) (quoting *Wetland Actions Network v. U.S. Army Corps of Eng'rs*, 222 F.3d 1105, 1118 (9th Cir. 2000)).

The Secretary did not act arbitrarily by separately preparing a Transfer EIS and an Implementation Agreement EIS. The Implementation Agreement EIS analyzed the on-

river effects of altering the Colorado River diversion points, and the Transfer EIS considered a separate water-transfer agreement among the districts and proposed habitat conservation programs. The Secretary did not prepare two EISs to "avoid consideration of an entire action's effects on the environment." *W. Radio Servs. Co. v. Glickman*, 123 F.3d 1189, 1194 (9th Cir. 1997). Rather, the Implementation Agreement EIS considered both the on-river impact of changing the Colorado River diversion points and the secondary, off-river consequences of reducing Imperial Irrigation's water.

D. Supplemental EIS

The Secretary also did not abuse her discretion by concluding that a supplemental EIS was unnecessary. A supplemental EIS is required if (a) the "agency makes substantial changes in the proposed action that are relevant to environmental concerns;" or (b) there are "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 C.F.R. § 1502.9(c). But, "supplementation is not required when two requirements are satisfied: (1) the new alternative is a '*minor variation* of one of the alternatives discussed in the draft EIS,' and (2) the new alternative is '*qualitatively within the spectrum of alternatives* that were discussed in the draft [EIS].'" *Russell Country Sportsmen v. U.S. Forest Serv.*, 668 F.3d 1037, 1045 (9th Cir. 2011) (alteration in original) (quoting Forty Most Asked Questions, 46 Fed. Reg. at 18,035).

We defer to the Secretary's decision not to prepare a supplemental EIS when, as here, the "new alternative" is a third-party plan to mitigate environmental impacts. As the

Supreme Court has explained, although an agency must provide a "reasonably complete discussion of possible mitigation measures," there is no "substantive requirement that a complete mitigation plan be actually formulated and adopted . . . ." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989). When federal action ultimately depends on "state and local governmental bodies that have jurisdiction over" the mitigation measures, "it would be incongruous to conclude that the [federal agency] has no power to act until the local agencies have reached a final conclusion on what mitigating measures they consider necessary." *Id.* at 352–53. Accordingly, a supplemental EIS is unnecessary when an agency's final decision falls "within the range of alternatives" considered in an EIS. *Russell Country Sportsmen*, 668 F.3d at 1046.

Plaintiffs argue that a supplemental EIS was required after the water districts altered their proposed Salton Sea Habitat Conservation Strategy ("SSHCS"). Under the originally proposed SSHCS, the Salton Sea could have received mitigation water directly from the Colorado River until 2030. The water districts instead ultimately agreed to decrease over time the amount of water transferred from Imperial Irrigation, rather than provide direct "mitigation water" to the Sea. Although the Implementation Agreement EIS did not consider this exact mitigation mechanism, it did consider the consequences of providing the Salton Sea with no mitigation water at all. The changes to the SSCHS thus: (1) were qualitatively considered through a no-mitigation alternative; (2) were a secondary aspect of the Implementation Agreement EIS; (3) reduced overall an adverse environmental impact; and (4) did not alter the project's cost-benefit analysis. *Russell Country Sportsmen*, 668 F.3d at 1048–49.

Two other post-EIS changes discussed by plaintiffs—modifications to the water sell and payback programs—are moot, as they were scheduled to occur in 2006, 2009, and 2012. *See Headwaters, Inc. v. Bureau of Land Mgmt.*, 893 F.2d 1012, 1015–16 (9th Cir. 1990). And, plaintiffs' claim that the Implementation Agreement EIS did not recognize that the CRWDA will reduce Imperial Irrigation's water up to 575.2 kafy in 2017—rather than 300 kafy—assumes water "loss" from prior water exchanges and conservation measures not at issue here.

Plaintiffs also argue that the Implementation Agreement EIS relied on the original SSHCS alone to reduce species loss at the Salton Sea, while the Secretary instead ultimately requested a biological assessment from the Fish and Wildlife Service and "adopted" an Endangered Species Act ("ESA") Section 7 approach. Section 7(a)(2) of the ESA requires consultation with the Fish and Wildlife Service to ensure that an action will not jeopardize listed species or their designated habitat. 16 U.S.C. § 1536. "Once Section 7(a)(2) consultation is complete, the FWS or the Service must provide the agency with a written biological opinion 'setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat.'" *Jewell*, 2014 WL 1465695, at *2 (quoting § 1536(b)(3)(A)). The Implementation Agreement EIS discussed using *either* the SSHCS or Section 7 to mitigate environmental harm in and around the Salton Sea. The Secretary initiated Section 7 consultations because it appeared that Imperial Irrigation would not agree to all of the terms in the proposed SSHCS. Because any mitigation strategy ultimately depended on "state and local governmental bodies," it would be "incongruous" to conclude that the Secretary erred by

discussing the environmental impacts of using a SSCHS, Section 7, or no-mitigation approach in the Implementation Agreement EIS. *Robertson*, 490 U.S. at 352. And, given the Secretary's consideration of the project's environmental impacts without mitigation, adopting the Section 7 approach in the environmental evaluation fell within the "range" of options that the Secretary had previously considered. *Russell Country Sportsmen*, 668 F.3d at 1046.

Plaintiffs further contend that the Implementation Agreement EIS and record of decision failed to discuss potential mitigation measures. An EIS must contain "a reasonably complete discussion of possible mitigation measures," *Robertson*, 490 U.S. at 352, and a record of decision must state whether "all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not." 40 C.F.R. § 1505.2(c). The Implementation Agreement EIS and the Secretary's record of decision sufficiently considered potential mitigation measures.

In the alternative, plaintiffs claim that the Secretary abused her discretion by using an "environmental evaluation"—a memorandum made available to the public—rather than an environmental assessment, to explain her decision not to prepare a supplemental EIS. But CEQ regulations do not dictate the form that an agency must use when deciding whether to prepare a supplemental EIS, and we have approved the use of various documents. *Idaho Sporting Cong. Inc. v. Alexander*, 222 F.3d 562, 565–66 (9th Cir. 2000) (endorsing the use of supplemental information reports, reevaluations, memorandums of record, and secretary issue documents). Moreover, the Secretary did not err by writing the environmental evaluation without prior public

input, as "there is no such requirement for the decision *whether* to prepare [a supplemental EIS]." *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 560 (9th Cir. 2000).

E. Alternatives

The Secretary's decision to discuss only one alternative—no action—was not arbitrary and capricious. NEPA regulations require an EIS to "[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40 C.F.R. § 1502.14(a). Whether the Secretary evaluated all reasonable alternatives depends on the "stated goal of a project." *City of Carmel-By-The-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997). "This is all NEPA requires—there is no minimum number of alternatives that must be discussed." *Laguna Greenbelt*, 42 F.3d at 524.

The Implementation Agreement EIS only compared the CRWDA to a no action alternative because the CRWDA is a negotiated agreement. Discussing a hypothetical alternative that no one had agreed to (or would likely agree to) would have been unhelpful, and as a result, the Implementation Agreement EIS reasonably compared a hard-fought negotiated agreement to no agreement at all.

In any event, the Implementation Agreement EIS properly compared the future environmental consequences of no action to the effects of the CRWDA. An agency must consider a no action alternative when discussing the effects of a proposed project. § 1502.14(d). "The 'no action' alternative may be thought of in terms of continuing with the present course of action until that action is changed." *Ass'n of Pub. Agency*

Customers, Inc. v. Bonneville Power Admin., 126 F.3d 1158, 1188 (9th Cir. 1997) (quoting Forty Most Asked Questions, 46 Fed. Reg. at 18,027). The Secretary acted reasonably by creating a model to compare the predicted conditions at the Salton Sea under the CRWDA with "no action."

F. Air Quality

The Implementation Agreement EIS also took the required "hard look" at the air quality impacts from the project. "A 'hard look' should, of course, involve the discussion of adverse impacts. A 'hard look' does not dictate a soft touch or brush-off of negative effects." *Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233, 1241 (9th Cir. 2005). An agency must also "acknowledge and respond to comments by outside parties that raise significant scientific uncertainties and reasonably support that such uncertainties exist." *The Lands Council v. McNair*, 537 F.3d 981, 1001 (9th Cir. 2008) (en banc).

The Implementation Agreement EIS discussed the impact that the CRWDA will have on air quality, responded to EPA concerns about the Salton Sea's shoreline, and incorporated by reference the detailed air quality discussion in the Transfer EIS. That was sufficient. *Lands Council*, 537 F.3d at 1001.[10]

G. Reclamation Project

The Implementation Agreement EIS sufficiently discussed the relationship between the CRWDA and the

[10] Plaintiffs cite a letter and a deposition transcript from a consultant. Neither, however, was submitted to the Secretary when she was drafting the EIS. *See Pub. Citizen*, 541 U.S. at 764–65.

Salton Sea reclamation project. An EIS must discuss a project's interaction with "other environmental laws and policies." 40 C.F.R. § 1502.2(d). The Salton Sea Reclamation Act of 1998 required the Secretary to conduct a feasibility study on "various options that permit the continued use of the Salton Sea" by January 1, 2000. Pub. L. No. 105-372, § 101, 112 Stat. 3377, 3378. The Secretary reasonably noted that a reclamation project can proceed with or without the CRWDA.

H. Growth

An EIS must consider "growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." 40 C.F.R. § 1508.8(b). The Secretary adequately considered how the CRWDA will interact with southern California land use, population density, and economic growth.

IV. Clean Air Act Claims

Plaintiffs argue that the Secretary should have performed a CAA conformity determination because the CRWDA will expand the Salton Sea's shoreline and thus increase PM10 levels. In light of its standing ruling, the district court did not consider this claim. But when we review a final agency action with a complete record, we may address this argument in the first instance, *City of Davis*, 521 F.2d at 673, and we conclude that the Secretary did not violate the CAA.

The CAA "conformity provision" requires that no federal agency "shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any

activity which does not conform to an implementation plan after it has been approved or promulgated under section 7410 of this title." 42 U.S.C. § 7506(c)(1). The EPA has adopted rules identifying when an agency must conduct a full-scale conformity determination, 40 C.F.R. § 93.153, but also has allowed state implementation plans to include "criteria and procedures for assessing conformity of Federal actions," as long as those "provisions apply equally to non-Federal as well as Federal entities," 40 C.F.R. § 51.851(a), (e). Imperial Air District adopted, and the EPA approved, such a conformity rule: Imperial County Air Pollution Control District Rule 925. Approval and Promulgation of Implementation Plans for Arizona and California; General Conformity Rules, 64 Fed. Reg. 19,916, 19,917 (Apr. 23, 1999). Although we have twice applied federal rules in CAA cases against federal agencies, *S. Coast Air Quality*, 621 F.3d at 1099–1100; *City of Las Vegas*, 570 F.3d at 1117, under either rule, the outcome here is the same.

Neither the federal nor the state rule identify the form an agency must use when deciding whether a project necessitates a full-scale conformity determination. Here, the Secretary announced her decision that a conformity determination was unnecessary in the Implementation Agreement EIS. An agency need not prepare a stand-alone document explaining such a decision. *City of Las Vegas*, 570 F.3d at 1113, 1117 (approving use of a "Finding of No Significant Impact" to explain why a CAA conformity determination was unnecessary); *see also Tinicum Twp., Pa. v. U.S. Dep't of Transp.*, 685 F.3d 288, 294 (3d Cir. 2012) (approving a conformity determination located in an EIS).

Both the federal and state rules require a full-scale conformity determination "where the total of direct and

indirect emissions of the criteria pollutant" exceeds a certain level. § 93.153(b); Air Rule 925(d)(2). Under both rules, "direct emissions" only include emissions that "occur at the same time and place as the action." 40 C.F.R. § 93.152; Air Rule 925(c)(7). And, both rules define indirect emissions as being (1) caused by federal action but occurring at a different time or place as the action, (2) reasonably foreseeable, (3) practically controlled by the agency, and (4) under the continuing program responsibility of the agency. § 93.152; Air Rule 925(c)(16).

The Secretary did not abuse her discretion by concluding that actions by the Interior Department will not directly cause PM10 emissions. The CRWDA only commits the Secretary to changing the delivery point of Colorado River water. The Secretary's real actions thus occur at the Parker and Imperial Dams; any Salton Sea PM10 emissions would be far from those diversion points.

Nor did the Secretary abuse her discretion in finding that the project will not indirectly increase PM10 emissions. In the absence of a new water delivery agreement, the Salton Sea might decline at a slower rate. However, any resulting emissions would not be "practicably controlled" by the Secretary. *See* § 93.152; Air Rule 925(c)(16). Imperial Irrigation, Imperial County, and the State of California, not the Secretary, will ultimately determine *how* to allocate the water they receive. If they so choose, they could allocate every acre foot of their Colorado River water to the Salton Sea. *See S. Coast Air Quality*, 621 F.3d at 1099–1101 (finding no practical control when a state ultimately causes the emissions); Determining Conformity of General Federal Actions to State or Federal Implementation Plans, 58 Fed. Reg. 63,214, 63,221 (Nov. 30, 1993) ("The EPA does not

believe that Congress intended to extend the prohibitions and responsibilities to cases where, although licensing or approving action is a required initial step for a subsequent activity that causes emissions, the agency has no control over that subsequent activity . . . .”).

V. Conclusion

For the foregoing reasons, we **AFFIRM** the judgment of the district court.

Reclamation Manual

Policy

TEMPORARY RELEASE

(Expires 05/16/2015)

Subject: Use of Reclamation Water or Facilities for Activities Prohibited by the Controlled Substances Act of 1970

Purpose: The purpose of this Policy is to provide a clear statement of the Bureau of Reclamation's intent to operate consistently with the CSA with respect to the potential use of Reclamation water or facilities for the production of marijuana.

Authority: Reclamation Act of 1902 (ch. 1093, 32 Stat. 388); Controlled Substances Act of 1970 (Pub. L. 91-513, 84 Stat. 1236; codified as amended in various sections of 21 U.S.C.)

Approving Official: Commissioner

Contact: Director, Policy and Administration

1. **Introduction.** The Controlled Substances Act of 1970 (CSA) and its implementing regulations prohibit the cultivation of marijuana, as defined at subsection 102(16) of the CSA (codified at 21 U.S.C. 802(16))[1]. Reclamation's obligation as a Federal agency to uphold Federal law prohibits it from approving the use of Reclamation water or facilities to facilitate activities prohibited by the CSA. Although the CSA's relevant prohibitions have not changed, the legalization of marijuana's cultivation and distribution under some state laws necessitates a clear statement of Reclamation's obligations under the CSA.

2. **Applicability.** This Policy applies to Reclamation staff involved in the administration of Reclamation water-related contracts.

3. **Definitions.** The definitions cited in PEC P05 apply to this Policy (see especially the terms "Contract Water" and "Water-Related Contract" at Paragraphs 3.D. and 3.R.).

4. **Responsibilities.**

   A. **Commissioner.** The Commissioner will ensure that appropriate Policy on compliance with the CSA and other laws is issued and kept current.

   B. **Director, Policy and Administration (Director).** The Director will issue D&S as necessary to provide additional support for implementation of the Commissioner's policies.

[1]Spelled "marihuana" in the statute.

C. **Regional Directors.** Regional directors are responsible for the implementation of this Policy within their regions in accordance with authority delegated to them by the Commissioner. Along with complying with relevant laws and delegated authority, regional directors are responsible for ensuring that contracts are administered in a manner that protects the interests of the United States and ensures Reclamation's compliance with applicable law. Regional directors are responsible for the reporting required in Paragraph 5.A. of this Policy, and for designating the Reclamation employee responsible for compiling and maintaining the record described in Paragraph 5.C.

5. **Policy.** Reclamation will operate its facilities, make available contract water, execute and administer its water-related contracts, and otherwise perform its contractual and legal duties in a manner that is consistent with the CSA. Specifically:

A. Reclamation will not approve use of Reclamation facilities or water in the cultivation of marijuana.

B. Should Reclamation employees become aware that Reclamation facilities or the water they supply are being used to facilitate cultivation of marijuana, they will, through their line management, bring this to the attention of their regional director, who will report such use to the Department of Justice and document the reporting action(s).

C. Throughout this process, a designated Reclamation employee will compile and maintain a record documenting all activities and communications regarding known or potential uses of Reclamation water or facilities to cultivate marijuana. These records will include all relevant memos, emails, letters, records of telephone conversations, etc. about known or potential uses of Reclamation water or facilities to cultivate marijuana, including responses by Reclamation employees.

D. Reclamation does not have a responsibility or designated role in actively seeking enforcement of the CSA.

6. **Commingled Water.** This Policy does not apply to non-contract water commingled with contract water in non-Federal facilities.