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IMPLEMENTATION OF THE CALIFORNIA PLAN FOR THE COLORADO RIVER

OVERSIGHT FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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IMPLEMENTATION OF THE CALIFORNIA PLAN FOR THE COLORADO RIVER

Monday, December 10, 2001
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Las Vegas, Nevada

The Subcommittee met, pursuant to call, at 12:30 p.m., the Commission Chambers, Clark County Government Center located at 500 South Grand Central Parkway, Las Vegas, Nevada, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

STATEMENT OF HON. KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT [presiding]. I want to thank all of our witnesses for coming long distances to be here in Las Vegas, Nevada today on a very important subject: The implementation of the California plan for the Colorado River.

This past year has been an eventful one regarding the management of western water and power generation. It began with a near catastrophe in the California electricity market, which affected the entire power grid in the western United States. It will take years to deal with the aftershocks that emanated from the poor leadership and lack of realistic vision and consistent planning. To avoid a similar catastrophe with our water, the House Resources Committee passed H.R. 3208, the Western Water Security Enhancement Act. Our bill is the largest effort in the past decade to shore up our scarce water resources and associated water infrastructure while protecting our fragile ecosystem.

We have learned a lot this past year. We recognize that the power system is improving throughout the West by better coordination and construction of new facilities and transmission lines. We have also learned that power facilities can be built and put online very quickly, in contrast to water infrastructure and development that may take more than a decade to come online. This is particularly troubling because if the West were to have a drought of even short duration, the impacts would be devastating to millions of families who depend upon a safe, reliable water system, in addition to the havoc it would create to our world renowned agricultural and industrial economies.

There is no question that the water security of several states, particularly the States of California, Arizona and Nevada, are directly tied to the management and operation of the Colorado River. Last month, Chairman Hansen demonstrated that the Colorado River would become an issue this congressional session by amending H.R. 3208 to require California to live within its legal entitlement of 4.4 million acre feet of water by 2016.

As many of you are aware, the last set of major congressional hearings on the Colorado River occurred in 1994. Since that time, many agreements have been reached by the Department of the Interior, and water users, to further manage the Colorado River efficiently and to the letter of the law. While we have made good progress defining that law, challenges certainly continue.

I look forward today to the hearing and the diverse perspectives from our witnesses on issues surrounding the Colorado River.

[The prepared statement of Mr. Calvert follows:]

Statement of Hon. Ken Calvert, a Representative in Congress from the State of California

This past year has been an eventful one regarding the management of western water and power generation. It started out with a near catastrophe in the California electricity market, which affected the entire power grid in the western united states. And ended with the House Resources Committee passing H.R. 3208, the "Western Water Security Enhancement Act." The later proving to be the largest effort in the past decade to shore up our scarce water resources and associated water infrastructure, while protecting our fragile ecosystem.

We have learned a lot this past year. We recognize that the power system is improving throughout the west by better coordination and construction of new facilities and transmission lines. We have also learned that power facilities can be built and on line very quickly, in contrast to new water infrastructure and development that may take more than a decade to come on line. This is particularly troubling because if the west were to have a drought, even of short duration, the impacts would be devastating to millions of families who depend upon a safe, reliable water system, in addition to the havoc it would create to our world renowned agricultural and industrial economies.

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I look forward today to hear the diverse perspectives from our witnesses on issues surrounding the Colorado River.

Mr. CALVERT. We have a great panel in panel one and all our panels today to discuss the Colorado River. And our first panel, and our first witness, is the Honorable Bennett Raley, the Assistant Secretary of Water and Power, Department of Interior. With that, I recognize the gentleman. We are on a 5-minute rule.

We are not too strict about that, Mr. Raley, but you are recognized for your testimony.

STATEMENT OF BENNETT RALEY, ASSISTANT SECRETARY FOR WATER AND POWER, DEPARTMENT OF INTERIOR

Mr. RALEY. Thank you, Mr. Chairman. Mr. Chairman, members of the Committee, I am Bennett Raley. I am the Assistant Secretary of the Interior for Water and Science. I am pleased to be here representing the Department of the Interior and to offer some background and perspective on ongoing Colorado River management actions.

Mr. Chairman, with your consent, I have asked Bob Johnson, the Regional Director for the Bureau of Reclamation to sit with me in case he can use his greater knowledge than mine to assist the Subcommittee in answering any questions.

Mr. CALVERT. Without objection.

Mr. RALEY. I would also request that my testimony be submitted for the record.

Mr. CALVERT. Without objection, so ordered.

Mr. RALEY. Mr. Chairman, I first wish to thank you and the Committee. I was told by someone that the Department did not testify at field hearings. I said, "Yes, we do." This is a matter of enormous importance; it is a matter of enormous and complicated history. And it is an honor to be here and for you to have had a field hearing out in the West where the Colorado River really means something, and I thank you.

It is an honor for me personally because it was 34 years ago that I went to my first meetings, including with some of the people in the audience on water issues. I wish I could say I have learned enough in that time—I have not—to be able to offer solutions to all the problems. What I have gained, though, is a deep appreciation for the complex interrelationship of the interested parties in the Colorado River and how that working relationship, which has largely been developed since in the years leading to the 1922 Colorado River compact and from that date forward, is so important to what we do here today and what we will do for the future.

I am not engaging in hyperbole when I say that I believe that subject matter we are here today to talk about is one that is a constitutional masterpiece. I say it because the issues of the Colorado River and its administration and its management are so deeply embedded and founded upon the Constitution, as is demonstrated by the fact that it starts with the Federal Government and the states and the structure that the Framers of the Constitution crafted, respecting their respective roles. I say it because the Colorado River embodies the treaty power with the Republic of Mexico. And I say it because we have seen the Constitution work throughout the history, since 1922, and it starts with the triumph of federalism.

It starts with the 1922 compact where seven states came together to do what many thought was impossible and that is to settle their disputes over the river by agreement, by rough consensus, and in water matters consensus is always rough and never perfect. And the important thing was that the Federal Government respected that. Congress ratified the treaty—I am sorry, ratified the compact, and the next time that the Federal Government engaged was only after the lower basis had spent a considerable amount of time trying to resolve its own differences.

And so in another proof that this is truly an issue of constitutional magnitude, Congress stepped in where the states could not agree in the Lower Basin to resolve disputes regarding the allocation of the Lower Basin's allocation. That was not necessary in the Upper Basin, because the states of the Upper Basin had done that themselves. The judicial branch stepped in to resolve disputes about what Congress had done.

And I would not say that the intervention, with all due respect to Congress and to this Committee or to the acts of the executive branch or judicial branch, was the highlight or the acme of success in the Colorado River, because I would say that the success of the Colorado River and its structure is deeper than that. It is when the states and the stakeholders get together to resolve their differences and to make the wise choices that the allocation and management of this important resource requires. And that, I think, is the most important thing to remember about the fabric, the legal fabric, the judicial fabric, the history that we deal with so carefully today, and that is that the proper role of the Federal Government and the Colorado River is to act, in my own view, when our constituents cannot reach a conclusion that serves their interests and the national interests.

And I have every hope that the activity of the past years where the states have come together in a series of events that is reminiscent of the dynamics that produced the 1922 compact, the states have come together to resolve yet another dispute, and if crafted, something that is mutually acceptable to all of them, that being the complex set of agreements, there is the California plan, the Quantification Settlement Agreement, the Secretary's implementation agreement. That was done largely through leadership and the hard work of the states and your constituents.

We, as an Administration, want very much for that to succeed. We want to enable the states and the water users to cross the finish line with the agreements that they worked so hard to achieve to avoid a return to the battles before the Supreme Court, to avoid taking other actions that would affect and maybe even jeopardize the fabric of the river. We think that it is absolutely critical that we exhaust all opportunities and spare no effort to enable those locally driven, state-driven agreements to succeed. But if they do not, there is a role for the Federal Government, one for the judiciary, one for the executive branch and for Congress, clearly. And that is to take action where stakeholders cannot agree amongst themselves.

And so we wait, Mr. Chairman. We wait in great hopes that the hard work of the past years will be brought to completion and that California, in working with its neighbor states, will be able to continue on a path of working out issues such as the treatment of surpluses under the law of river, in a coordinated and cooperative fashion as opposed to the more uncertain consequences when you proceed under the authority of one of the Federal branches of Government. Thank you, Mr. Chairman.

[The prepared statement of Mr. Raley follows:]

Statement of Bennett Raley , Assistant Secretary for Water and Science, U.S. Department of the Interior

My name is Bennett Raley. I am Assistant Secretary of the Interior for Water and Science. I am pleased to be here representing the Department of the Interior and to offer some background and perspective on ongoing Colorado River management activities.

The Secretary of the Interior (Secretary) is mandated under Federal law and the Supreme Court Decision and Decree in Arizona v. California to serve as water master for the Lower Colorado River. In that role the Department is responsible for administering the Colorado River water apportionments in the three states of California, Arizona and Nevada as well as the individual entitlements of users within those states. The Secretary also consults with all seven Colorado River Basin States [1] regarding issues that effect the entire Colorado River.

Background

The history of the Colorado River is filled with controversy and conflict dating back to the early 1920's, when the allocation of apportionments between the Upper and Lower Basins was developed. The need for the 1922 Colorado River Compact was created by California's early and significant development utilizing the river's water. The passage of the 1928 Boulder Canyon Project Act, which authorized the construction of Hoover Dam and the All American Canal in California and established the allocation of Lower Basin apportionments, occurred in spite of disagreement between Arizona and California. Congress allocated the water without the concurrence of the two states, giving California 4.4 million acre-feet of water, the largest apportionment of all seven Colorado River basin states. To address the concerns of the other states, Congress required that, before construction of Hoover Dam could be initiated, the state of California must adopt a law limiting its use to the allocated 4.4 million acre-feet (maf). In 1930, with the passage of the California Limitation Act, the California Legislature complied. A contract among the California entities, the "Seven Party Agreement," was subsequently developed which allocated the 4.4 maf among water users within the State.

During the 1940's and 50's California developed facilities allowing the utilization of more than its 4.4 maf apportionment and quickly began full use of its share of the river, and more. During that same time, Arizona began developing its own plans for utilization of its 2.8 maf apportionment. However, California effectively prevented Arizona from implementing its plans, arguing that development and use of water from Colorado River tributaries within Arizona counted against its apportionment and limited significant additional development and diversion from the mainstream by Arizona.

In 1951, Arizona filed suit in the U.S. Supreme Court, asking the court to clarify and support Arizona's apportionment. After 12 years of fact finding by a Special Master and arguments by the two states, the Supreme Court issued a decision in 1963 affirming Arizona's 2.8 maf apportionment. In 1964, the court further affirmed the decision by issuing a decree that, among other things, enjoined the Secretary from delivering water in amounts outside the decreed entitlements. Recognizing that time would be required for Arizona to develop its full use, the court allowed California to continue to use amounts greater than its apportionment as long as the other lower basin states were not utilizing their full entitlements, or if surplus water was determined to be available by the Secretary.

Despite Arizona's victory in the Supreme Court, California was still able to extract a final concession from Arizona. In exchange for California's support of Congressional authorization for the Central Arizona Project (CAP), Arizona conceded to allow its CAP water to have a subservient priority to California water use during times of shortage on the Colorado River system. This was a significant concession since CAP water use represents more than half—approximately 1.5 maf of its 2.8 maf—of Arizona's apportionment.

California's Internal Allocation

It is also important to provide some background on the historical relationship among the Colorado River water users within California. The relationship that is internal to California's water allocation is defined by the Seven Party Agreement and related documents and is as complicated as the relationship among all the seven basin states. The documents that memorialized the Seven Party Agreement were executed in 1931 by the California Colorado River water users and the Sec-

[1] The basin states are: Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming

retary. In summary, this agreement made the southern California urban area served by the Metropolitan Water District (MWD), the lowest priority recipient within the State and gave higher priority to agricultural use. Further, it provided for a tiered entitlement system among the agricultural users with priorities for unlimited use by three of four irrigation districts. In addition, Coachella Valley Water District (CVWD), has an entitlement for any unused water within a 3.85 maf irrigation limit. These relative priorities have placed both MWD and CVWD at odds with the other California contractors, particularly the Imperial Irrigation District (IID), the largest agricultural water user not only in California but in the entire river system.

Following the Supreme Court Decree in 1964, California continued to utilize more than its entitlement, relying on the unused apportionment of other lower basin states as provided for in the Decree. In the early 1990's, however, Arizona and Nevada began approaching their full entitlement and it became apparent that California would soon have to begin curtailing its use. The realization that California reductions would soon be required increased the tension among the California contractors as well as with the other basin states. Given the California entitlement system, most of the reductions in use, as much as 800,000 acre-feet, would have to be borne by urban users given their low priority. With the large population served in this region of the state along with anticipated continued significant growth, coupled with the limited water supplies from other sources, there was significant concern over California's ability to comply with the mandates of the Decree.

California began pressing the other basin states and the Secretary to utilize another section of the Decree that allows for a declaration of surplus when hydrologic conditions permit. Such a declaration would essentially allow California's continued utilization of more than its entitlement, as much as 5.2 maf in some years. Because of the contentious history and California's central role in that conflict, the other basin states were less than enthusiastic about the proposal.

By the mid 1990's, with the encouragement of the other basin states and the Secretary, the California parties acknowledged the need to limit their water use and to began serious efforts to develop a plan to achieve the reduction. Fortunately, wet conditions in the basin resulted in full reservoirs and an abundance of water, thereby allowing the Secretary to declare surpluses and to continue to meet all of California's water needs while this plan was being developed.

I emphasize this history in my testimony because it underscores the contentious relationship that has existed between California and the other states as well as internally among the California water users. It also facilitates an understanding of the perspectives of the various parties. All of the other basin states have a long history of concern about California's use of the system and have a strong desire to protect their entitlements established under the Colorado River Compact, the Boulder Canyon Act, the Upper Colorado River Basin Compact, and the Supreme Court Decree.

Negotiated Solution Among California's Colorado River Water Users

Efforts over the last five years have produced a negotiated settlement of how they will reduce their use of Colorado River water down to their 4.4 allocation. The California entities have developed a plan to do this in a manner that does not place the burden of reduction on the urban area. Agriculture to urban water transfers, on a willing buyer/willing seller basis, will allow the burden of reductions to be accommodated by irrigation water users. These transactions have been facilitated through a Quantification Settlement Agreement (QSA), which modifies the Seven Party Agreement by quantifying the entitlements of both Coachella Valley Water District (CVWD) and Imperial Irrigation District (IID) for a period of up to 75 years. The details of the settlement have been worked out and most of the documents are ready for execution.

Recognizing California's significant efforts and the fact that the reductions will require some time to implement, the Secretary adopted a plan, based on a consensus proposal from the seven basin states, to allow California to continue to use surplus water to satisfy the needs of the southern California urban areas for a 15 year period. The Secretary formally adopted surplus guidelines for operation of the river system, with the signing of a final record of decision in January, 2001.

Deadlines for Final Implementation

The Record of Decision for the Colorado River interim Surplus Guidelines includes specific benchmark dates and quantities by which California must reduce its use of Colorado River water over the next 15 years. The first benchmark must be achieved in 2003. California's failure to meet the required benchmarks would result in a reduction of available surplus waters. The Guidelines anticipate that execution of the

QSA (and its related documents) among IID, CVWD, MWD, and the San Diego County Water Authority by December 31, 2002 will allow the required benchmarks to be met. I can not emphasize enough the importance of these deadlines. While the other basin states and the Secretary are impressed with California's efforts, a "trust but verify" process has been established. Therefore, it is essential that these required actions take place in accordance with the QSA. If California does not meet the benchmark quantities, the recently developed trust will be significantly undermined and would likely result in a significant reduction in available Colorado River waters under the terms of the Surplus Guidelines. Two dry years (roughly 60 percent of normal) in the Colorado River Basin have resulted in significantly decreased reservoir storage. Without demonstrated progress by California, the provisions of the surplus guidelines will require that California live without the plentiful surplus waters that have been available to this date.

Water Transfers and Impact on the Salton Sea

The biggest issue affecting California's successful implementation of the water transfers associated with the plan, is achieving both state and Federal Endangered Species Act compliance. While significant progress has been made in this arena, addressing potential impacts that the water transfers will have on the Salton Sea has been difficult. Currently, IID is working with the Fish and Wildlife Service to prepare a Habitat Conservation Plan (HCP) to address the impacts that the water transfers may have on species both within the District and at the Salton Sea. An agreement in concept to address species within the District boundaries is nearly completed. However, reaching an agreement on measures to mitigate the effects of the water transfers on the Salton Sea has been much more difficult.

IID and the other California parties (CVWD, MWD, and SDCWA) have sought both State and Federal legislation to provide relief from the Endangered Species Act and California Endangered Species Act for covered activities in the HCP area. Proposed Federal legislation (H.R. 2764) was introduced August 2, 2001, to provide, among other things, $60 million in appropriations for Salton Sea mitigation, and directs the Fish and Wildlife Service to issue the necessary "take" permits for the water transfers. Similarly, legislation introduced in the California Assembly (A.B. 1561), to provide compliance with the California Endangered Species Act, has been prepared and may be considered in January 2002 .

Another possible solution that the parties are exploring entails Reclamation entering into Section 7 consultation with the Fish and Wildlife Service on potential impacts of the water transfers on the Salton Sea. If that were to proceed, the scope of the HCP being prepared by IID, would be adjusted to address only covered activities within the IID service area. Further, the number of species to be addressed would be significantly reduced because it would be limited to Federally proposed or listed species. Two listed species, the Desert Pupfish and the Brown Pelican, have been identified at this time. The White Pelican, one of the most abundant fish-eating birds at the Salton Sea, would not be included in the Consultation. The discretionary Federal action being consulted on is the approval of the Implementation Agreement and the water transfers off the mainstem.

The Department continues to work with all interested parties to continue to identify other potential solutions for resolving this very complex issue. We are committed to seeking acceptable and scientifically sound solutions whether using existing administrative process or legislative initiatives.

Conclusion

The resulting framework (i.e, a California Plan coupled with Interim Surplus Guidelines) is truly historic. The negotiations have been intense and all the parties deserve praise for their ability to compromise and find workable solutions. The hurdles that have been overcome are much greater than the ones before us. To allow the process to fail now is untenable. We look forward to working with all of the involved parties to complete the process.

That concludes my statement. I would be pleased to answer any questions.

Mr. CALVERT. Thank the gentleman for his testimony. Mr. Raley, you will be able to—I know you are a short time today. How much time do you have today to spend with us?

Mr. RALEY. Sir, this is important enough that I will make whatever time I can.

Mr. CALVERT. OK. Then I am going to recognize the second panel, then we can ask questions to everyone in relationship to the subject at hand.

On our second panel, Larry Anderson, director of the Utah Division of Water Resources; Maureen A. Stapleton, the general manager of San Diego County Water Authority; Tom Graff, the regional director for the Environmental Defense Fund; George Caan, the executive director of the Colorado River Commission; and George R. Zimmerman, executive director of the Colorado River Board of California.

And first I will recognize Mr. Anderson. We are still under the 5-minute rule. Try to stay with that as much as possible; we would appreciate it. You are recognized.

STATEMENT OF D. LARRY ANDERSON, DIRECTOR, UTAH DIVISION OF WATER RESOURCES

Mr. ANDERSON. Thank you very much. Appreciate the honor of being here today and to appear before this panel. Again, I am Larry Anderson. I am the director of the Utah Division of Water Resources. I serve as Utah's interstate streams commissioner, and I am Governor Lebiditz' representative on Colorado River issues.

The Colorado River falls more than 12,000 feet as it flows from the Rocky Mountains to its outlet in the Gulf of California. Most of the flow of the Colorado River originates high in the mountains of the Upper Basin states of Colorado, New Mexico, Utah and Wyoming. The Colorado River is an important economic, recreational and environmental resource for the citizens of the Upper Basin. A significant portion of the Upper Basin states' economics revolves around, and are supported by, the Colorado River and its tributaries for power generation, irrigation, tourism, as well as for municipal and industrial water supply for many communities in the West. Thus, we are vitally concerned with the management of the Colorado River.

Because of the critical role of water in the arid West, the Colorado River has been subject to extensive negotiations and litigation. This has resulted in the development of a complex set of Federal laws, compacts, court decisions, treaties, state laws and other agreements collectively known as the Law of the River.

With the goal in mind of protecting the Upper Basin's current and future uses of the Colorado River, Utah joined with the other six Basin states in responding to a request by the Secretary of the Interior to develop a plan for which the short-term needs of the Lower Basin could be met during a transition period, while the lower division states, specifically California, develops and implements a plan to limit its use of Colorado River water to the amount allowed under the Law of the River. After intense discussions and negotiations among the seven Basin states, a consensus plan was developed. The plan resulted in the development of the Colorado River Interim Surplus Guidelines, as adopted by the Secretary of the Interior in his Record of Decision in January of 2001.

The surplus guidelines allow the Secretary to provide water to meet municipal and industrial uses in the Lower Basin, particularly in California, during an interim period—2001-2016—when the Colorado River reservoirs are projected to be relatively full. The In-

terim Surplus Guidelines allows California 15 years to implement conservation programs to reduce their annual demand for Colorado River water, from current uses of 5.2 million acre feet to its apportionment of 4.4 million acre feet, a reduction of 800,000 acre feet of water annually. The California Water Plan for the Colorado River outlines the process California will follow to reduce its use to 4.4 million acre feet per year. During this 15-year timeframe, the Basin states have agreed to give California a greater assurance than hydrology may afford that surpluses will be declared and municipal and industrial water demands will be met during this transition period.

The Upper Basin states support the consensus reached by the seven Basin states and expect the Federal Government and the Secretary of the Interior to continue to follow through on the commitments of all parties and be willing to enforce the provisions the Interim Surplus Guidelines. We, the Upper Basin states, think appropriate enforcement is critical to protecting our rights to the water allocated to us under the Law of the River.

Of great interest and concern to the Upper Basin states is the success of the California 4.4 Plan for the Colorado River, which is an integral part of the Interim Surplus Guidelines Record of Decision. The plan outlines the steps California water users must take to meet the requirements of the Interim Guidelines. The Upper Basin states have supported, and tried to facilitate through the Interim Guidelines, California's development of a plan to get down to 4.4 million acre-feet of annual use. And we fully expect the plan to be finalized and in place by December of 2002 with all necessary agreements and compliance documents executed.

The Quantification Settlement Agreement will be the overarching agreement that will make possible the California 4.4 Plan. The Upper Basin states encourage Congress and the Federal agencies to provide support for and facilitate this agreements wherever appropriate, and if necessary, expedite any required Federal review process. H.R. 2764 is a good example of this facilitation, as it involves the interrelation issues of Colorado River water use in California and Salton Sea protection and restoration efforts. The Upper Basin states have contacted their congressional delegations to express support for H.R. 2764.

In conclusion, the Upper Basin states support the implementation of the California 4.4 Plan for the Colorado River. Our support has been demonstrated in the close working relationship of all seven Basin states in the development of the Interim Surplus Guidelines. The California 4.4 Plan and the Quantification Settlement Agreement are integral parts of these guidelines, all due diligence needs to be exercised by Congress, Federal agencies, and the Colorado River Basin states to achieve the worthy goal of implementing this plan and the Quantification Settlement Agreement. Thank you very much.

[The prepared statement of Mr. Anderson follows:]

Statement of D. Larry Anderson, Utah Commissioner, Upper Colorado River Commission and Director, Utah Division of Water Resources

The Colorado River falls more than 12,000 feet as it flows from the Rocky Mountains to its outlet in the Gulf of California. The river has a huge drainage basin that covers over 244,000 square miles. The seven Colorado River Basin states (Ari-

zona, California, Colorado, Nevada, New Mexico, Utah, Wyoming) comprise about one-twelfth of the area of the continental United States. Despite the size of the watershed, the Colorado River ranks only sixth among the nation's rivers in volume of flow, with an average annual undepleted flow in excess of 17.5 million acre-feet (MAF) (15 MAF at Lee Ferry, the compact division point). Demands on the Colorado River are not limited to needs within the basin. In fact, more water is exported from the basin than from any other river in the country. The river provides municipal and industrial water for more than 24 million people living in the major metropolitan areas of Los Angeles, Phoenix, Las Vegas, Salt Lake City, Denver, Albuquerque, and hundreds of other small communities in the seven states. It also provides irrigation water to about 2.0 million acres of land. The river has over 60 MAF of storage capacity and 4,000 megawatts of hydroelectric generating capacity. The river is often described as the most regulated river in the world. Considering the river's importance to the basin states, Native American Indian Tribes and Mexico, the agreements that have been reached to divide the river's waters must be considered of the utmost importance.

Most of the flow of the Colorado River originates high in the mountains of the Upper Basin states of Colorado, New Mexico, Utah and Wyoming. The Colorado River is an important economic, recreational, and environmental resource for the citizens of the Upper Colorado River Basin states. A significant portion of the economy the Upper Basin states revolves around and is supported by the use of the Colorado River and its tributaries for power generation, irrigation, and tourism as well as a municipal and industrial (M&I) water supply for many communities. Thus we are intimately involved and vitally concerned with the management of the Colorado River.

The Law Of The River

Because of the critical role of water in the arid west, the Colorado River has been the subject of extensive negotiations and litigation. This has resulted in the development of a complex set of federal laws, compacts, court decisions, treaties, state laws and other agreements collectively known as "The Law of the River". The principal documents forming "The Law of the River" include:

- The Colorado River Compact of 1922;
- The Boulder Canyon Project Act of 1928;
- The Mexican Treaty of 1944;
- The Upper Colorado River Basin Compact of 1948;
- The Colorado River Storage Project Act of 1956;
- The U.S. Supreme Court's Arizona v. California decision and decree of 1964;
- The Colorado River Basin Project Act of 1968;
- Criteria for Coordinated Long–Range Operation of Colorado River Reservoirs of 1970;
- Minute 242 of the International Boundary and Water Commission of 1973;
- The Colorado River Basin Salinity Control Act of 1974;
- The Grand Canyon Protection Act of 1992;
- Colorado River Interim Surplus Guidelines of 2001

In addition to these documents, several other federal and state laws impact the use of the river. Some are California's Self Limitation Act, the federal Endangered Species Act, National Environmental Policy Act, Clean Water Act, and the Wild and Scenic Rivers Act. Currently a key document is the yet to be completed California Colorado River Quantification Settlement Act which revises and quantifies the water use priorities in California of its Colorado River water allocation.

Interim Surplus Guidelines

One of the most important issues in the Colorado River Basin today is the increasing municipal and industrial water demands in the Lower Division states of Arizona, California, and Nevada as compared to their available water supply allocated under AThe Law of the River". Unless and until the Lower Division states take the necessary steps to live within their entitlement of 7.5 MAF per year, the Upper Basin states' ability to continue to develop and use their allocations could be impaired. With the goal in mind of protecting the Upper Basin states" current and future uses of Colorado River water, Utah joined with the other six basin states in responding to a call from the Secretary of the Interior to develop a plan by which the short term needs of the Lower Division states could be met during a transition period. During this transition period the Lower Division states, specifically California, will implement a plan to limit use of Colorado River water to the amount allowed under "The Law of the River". After months of intense discussions and negotiations among the seven Colorado River Basin states, a consensus plan was developed. This consensus plan resulted in the "Colorado River Interim Surplus

Guidelines" (Guidelines) as adopted in the Secretary of the Interior's Record of Decision (ROD) signed January 16, 2001.

The Guidelines allow the Secretary to provide water to meet municipal and industrial (M&I) uses in the Lower Basin, particularly in California, during an interim period 2001- 2016 (while Upper Basin states Colorado River water demands are at less than their compact allocation). Water users in California have been using approximately 5.2 MAF annually over the past 20 years, 800,000 acre-feet more each year than their basic apportionment as determined in Arizona v. California. Interim surplus guidelines allow California 15 years to implement conservation programs to reduce its demand for Colorado River water from 5.2 MAF to its compact allocation of 4.4 MAF. The California 4.4 Plan for the Colorado River outlines the processes California will follow to reduce uses to 4.4 million acre-feet per year. During this 15-year time frame, the basin states have agreed to give California a greater assurance that surpluses will be declared and M&I water demands will be met from reservoir storage during the transition period.

These criteria are structured in such a way as to also provide protection to the other six basin states against the potential impacts of dry hydrology in the next 15 years. This protection will reduce the allowable California M&I water demands that can be met by surpluses as the reservoirs are lowered because of drought. The Upper Colorado River Basin states support the consensus reached by the states in the Guidelines. We expect the federal government and the Secretary of the Interior to continue to follow through on the commitments of all parties including enforcement of the provisions of the Interim Surplus Guidelines if California does not meet the benchmark reduction amounts set forth in the Guidelines and the ROD. It is critically important that California make the anticipated progress in reducing its annual Colorado River water use over the next 15 years. The Upper Basin states strongly believe appropriate enforcement is critical to protecting our allocations under AThe Law of the River". It was on this basis the states agreed upon the provisions that were incorporated into the now promulgated Interim Surplus Guidelines.

California Water Use Plan for the Colorado River

Of great interest and concern to all the Colorado River Basin states is the success of the California Water 4.4 Plan for the Colorado River, which is inextricably linked to the Interim Surplus Guidelines ROD. This plan outlines the necessary steps California water users must take to meet the requirements of the Interim Surplus Guidelines ROD. The Upper Basin states have supported, and tried to facilitate through the Guidelines, California's development of the plan to get down to 4.4 million acre-feet of annual use. We fully expect this plan to be finalized and in place by December 31, 2002 with all necessary agreements and compliance documents executed. Absent meeting the December 2002 deadline for the finalization of the California 4.4 Water Plan and associated agreements including the Quantification Settlement Agreement, we expect the Secretary of the Interior to enforce the provisions of the Interim Surplus Guidelines and the ROD for suspension of the Guidelines.

The Quantification Settlement Agreement will be the overarching agreement that will make possible the California Water 4.4 Plan for the Colorado River. While we have some concern over the conflicts the 4.4 plan has generated within California, we fully anticipate and expect the water users in California to solve their problems as the viability of the Interim Surplus Guidelines hangs in the balance. The Upper Basin states encourage Congress and federal agencies to provide support for and facilitate these agreements wherever appropriate, and if necessary, expedite any required federal review processes.

H.R. 2764 (Colorado River Quantification Settlement Facilitation Act) is a good example of this facilitation as it involves the inter-related issues of Colorado River water use in California and Salton Sea protection and restoration efforts. The Upper Basin states have contacted their congressional delegations to express support of H.R. 2764. While the Salton Sea has become an important wildlife habitat, it also should be recognized the Salton Sea is a man-made habitat dependent upon agricultural inefficiency and resultant return flow. Any water dedicated for use in the Salton Sea will have to come from existing water uses in the area, which may conflict with the transfer of agricultural water to municipal use as contemplated in the California Water Plan for the Colorado River and the ROD benchmarks established in the Interim Surplus Guidelines. Given the relationship between the Salton Sea and Colorado River water use under the California Plan, the impacts of these efforts should be carefully evaluated.

Conclusion

In conclusion, the Upper Colorado River Basin states strongly support the implementation of the California Water Plan for the Colorado River. Our support has been demonstrated in the close working relationship of all seven of the Colorado River Basin states in the development of the Interim Surplus Guidelines. The California Water Plan for the Colorado River and the Quantification Settlement Agreement are inextricably linked to the Interim Surplus Guidelines. All due diligence should be exercised by Congress, Federal Agencies, and the Colorado River Basin states to achieve the worthy goal of implementing this plan and consummating the Quantification Settlement Agreement.

Mr. CALVERT. Thank you.

Ms. Stapleton?

STATEMENT OF MAUREEN A. STAPLETON, GENERAL MANAGER, SAN DIEGO COUNTY WATER AUTHORITY

Ms. STAPLETON. Thank you very much. Mr. Chairman and honorable members of the Committee—yes, there it goes. I have an overhead presentation, and hopefully it shows up on your screen. Terrific.

I am Maureen Stapleton, the general manager of the San Diego Water Authority, and I am here to provide you a status and a progress report on the implementation of the Colorado River Plan on behalf of the major users by California of Colorado River water, which is Metropolitan Water District of southern California, Imperial Irrigation District, Coachella Valley Water District and the San Diego County Water Authority. I am here to represent four major water agencies with one purpose and one goal, and that purpose is the successful implementation of California's Colorado River Water Use Plan, and ultimately the execution and implementation of the Quantification Settlement Agreement.

I would like to provide you a brief overview, and you have heard it from the previous speakers that basically California has been apportioned for 0.4 million acre feet, and in the past we have been using up to 5.2 million acre feet predominantly through surplus declarations and the unused apportionment of other Lower Basin states, specifically Nevada and Arizona. As those two States have grown, their water needs have grown, and they have used more and more of their entitlement. We are now at a point on the river where both Nevada and Arizona are using their apportionment, surplus water is no longer available, and California must reduce its use.

As you have heard by the previous speakers that the majority of the 1990's were used to basically craft a carefully balanced agreement among the California water agencies and then ultimately with the other six Basin states and the Department of the Interior to develop California's Colorado River Water Use Plan. This plan is unique in its feature that it is literally endorsed by all seven Colorado River Basin states and the Department of the Interior. As part of that plan, it does include that the Bureau of Reclamation has implemented the Interim Surplus Guidelines, which are estimated to last for 15 years to allow California a soft landing as it goes on its water diet. Next slide, please.

You know that the Colorado River is apportioned by state, and here we have what the basic apportionment is and then the pro-

jected use for 2001. As you can see, as I indicated earlier, Nevada, Arizona are taking their full apportionment, and California is presently using approximately 5 million acre feet.

The California plan specifically has three major components in that it really writes a new chapter in the history of the law of the Colorado River. What is unique about the California plan is that it resolves the internal California water agencies' conflicts, which some of them are literally decades old. Additionally, unlike others that you have seen before, this plan is an agreement among not only the California agencies but the other six Basin states and the Federal Government as well. And it really is a cooperative Basin-wide approach to how we use limited resources. Unlike the history on the Colorado River where you end up either with weapons of the court or many, many decades ago weapons against each other, this one is really a cooperative approach where all of us have agreed to how to deal with this limited resource issue.

The key program elements are water transfers between Metropolitan Water District and Imperial Valley, a 200,000 acre-foot water transfer between San Diego County Water Authority and Imperial Irrigation District and an additional 100,000 with the Coachella Valley Water District. In addition to these substantive water transfers, there is also a canal lining program to capture the seepage, and that is 94,000 acre feet. Of that, 16,000 acre feet will go to settle the San Luis Rey Indian dispute, which has been for about 30 years now. And then in addition to that, there are a variety of storage and conjunctive use programs with the opportunity to capture additional water in wet years and then utilize in dry years.

And then, as I said, as part of the California plan is the Interim Surplus Guidelines, which are anticipated to last until 2016. They are basically a reoperation of Lake Mead to provide California with surplus water for the urban area while we implement these various conservation programs and projects.

The Quantification Settlement itself is the settlement among the California agricultural agencies regarding limiting their use of Colorado River water. It is considered the major element of the California plan is really the blueprint on how California will reduce its take on the river, ultimately, and get back within its 4.4 million acre-foot entitlement. It includes the agreements on the Water Conservation and Transfer Programs, and it talks about moving approximately 500,000 acre feet of water conserved in Imperial Valley, moving to the urban agencies.

When you look at how much have we invested in the program, unlike many large water projects in the western states, what you see on this slide is the substantial investment by local agencies, almost $6 billion over the 75 year-term of this agreement, to make this Colorado River Plan happen. The State of California has contributed an additional $235 million to provide funding for the canal lining and some of the conjunctive use programs. And as you know, we are requesting funding of the Federal Government to assist us in implementing this plan as well.

But unlike many of the water projects where you see the most substantial amount of funding coming from the Federal and state government with a small portion coming from the local agencies,

this is exactly opposite of that. It is where the local agencies, our local ratepayers, your local constituents are paying the largest chunk of this bill.

We have done a lot of environmental review related to implementing the Colorado River Plan. There are five distinct areas of implementation that must be evaluated from an environmental compliance standpoint, and of the five, four of them we believe we are near or at agreement on. In river, changing the diversion point from Imperial Dam to Parker Dam has to be mitigated, and the four agencies are doing so. In Valley, the water conservation programs have an environmental impact in the Valley. The agencies again are responding and doing the appropriate mitigation.

There are a number of specific projects which require mitigation as well, and, again, the four agencies are footing the bill for that mitigation. There is an issue about the service area of use and a question related to the growth issue, and, again, we are responding to that in our environmental documents.

And then, finally, we have the Salton Sea issue, which I want to talk about a little further in detail. In 1998, U.S. Congress passed the Salton Sea Reclamation Act, and you basically directed that a reclamation plan and alternative be studied and funded, which looks at options to reduce and stabilize the overall salinity of the sea. As you know, you also directed that the feasibility study be back before Congress in January of 2000, but, unfortunately, those alternatives which were first vetted to you were found not viable.

You will also remember that as part of the 1998 act, that the options were to assume up to a 500,000 acre-foot loss of ag drainage water, and that was to reflect, to a great extent, the anticipated water transfers, which California and Congress knew were coming. Specifically, the act precluded the use of additional Colorado River water directly to the Salton Sea. Again, we knew that that would be in conflict with the Law of the River and would create additional dynamics on the river, which we thought were not viable. And the revised feasibility study is due sometime in early to mid-2002.

Why this time is so important is the four agencies that were working on the Colorado River Plan assumed that Congress would have in hand in January of 2000, you would have those options available to you and would make decisions prior to our drop dead date of December of 2002. Because the alternatives report went back to the drawing board, it has created the dynamic and the challenge that we are all dealing with today.

As you know, the Salton Sea status is that it is deteriorating and will do so with or without the water transfers. Historically, the sea has increased about TDS parts per million in salinity each and every year. The temporal impacts of the water transfer are real. The sea is anticipated to turn super saline in sometime between 7 and 22 years. Sometimes that has been raised as high as 25 years. They are estimates, our best estimates by the scientists who have been working on the alternatives.

The transfer itself will accelerate the salinity, the timing of the salinity or when the sea would turn hyper-saline by between one and 9 years. So it may be that in the most conservative approach we have an impact of about 15 years on the Salton Sea. It is important to note, however, that the water transfers are not causing the

hyper-saline condition at the sea, but the Salton Sea and the species at the sea continue to remain in jeopardy with or without the transfer.

We have worked on a variety of solutions and have sought them both administratively and legislatively. We are working very hard with the Department of Interior, the Bureau of Reclamation and the Fish and Wildlife Service to pursue an administrative solution to this challenge of the timing between the Salton Sea reclamation and the water transfer implementation.

Additionally, the Hunter bill, as you are familiar with, H.R. 2764, was introduced to address the issue related to both funding and to providing regulatory certainty for the water transfers in the four water agencies. We are hoping that we will be able to make significant progress with the Administration in seeking as much of the solution to this conundrum as possible administratively, but we do believe that legislative effort may be necessary in the end. And then as you know, Chairman Calvert, the recent authorization of $60 million for Salton Sea mitigation was added to your H.R. 3208 just recently.

We are also, on the California side, we are working with our resources agency, our Department of Fish and Game and our Department of Water Resources, as well as the environmental community to pursue an administrative solution. We have not only the challenge of the Endangered Species Act on the California side, but we also have California's Fully Protected Special Act, which comes into play on the Salton Sea issue as well. And we are hopeful that we will find an administrative, and it may be necessary on the fully protected side, it will be necessary, for us to seek legislative solution on that as well.

Why is timely action needed? We have a deadline, and that deadline, as you have heard, there is an expectation that that deadline will be enforced. We must approve the plan for environmental compliance and ultimately execute the Quantification Settlement Agreement by December 31 of 2002. If we do not do so, California's Interim Surplus Guidelines are in jeopardy, and that jeopardy may lead to the potential loss of up to 700,000 acre feet of water for southern California. That is critical for all of California, it puts tremendous pressure on our limited resources in California, and it is—as the previous speakers have said, we must succeed, because the other option is not acceptable. Everyone agrees what we are trying to reach we are trying to reach successful implementation. The environmental community, the agriculture agencies, the urban agencies, we are working to try to reach this goal. There are serious ramifications if we do not reach the goal, and we are asking for your assistance to help assure that we get there.

[The prepared statements of the San Diego County Water Authority, the Coachella Valley Water District, the Metropolitan Water District of Southern California, and the Imperial Irrigation District follow:]

[Letters submitted for the record may be found at the end of the hearing.]

Statement of Maureen A. Stapleton, General Manager, San Diego County Water Authority

Mr. Chairman and Members of the Subcommittee, I am Maureen Stapleton, General Manager of the San Diego County Water Authority. I appreciate the opportunity to discuss the status and current progress in implementing California's Colorado River Water Use Plan (California Plan) on behalf of Southern California's major users of the Colorado River water. The Metropolitan Water District of Southern California (MWD), the Coachella Valley Water District (CVWD), Imperial Irrigation District (IID) and the San Diego County Water Authority (SDCWA), which I will refer to collectively as the "Agencies —have progressed considerably in a unified and cooperative effort to ensure that California can live within its basic apportionment of Colorado River water.

This California Plan progress report is being supplemented with additional Agencies" statements on efforts that further serve to advance the California Plan and to meet the region's water supply and management needs. I respectively request that our collective written statements be made part of the hearing record. I am also including letters from representatives of the Colorado River basin states indicating both their support and concern for the implementation of the California Plan, and for Congressman Hunter's bill to facilitate its implementation, H.R. 2764. I request that these letters also be made part of the hearing record.

The Colorado River is a vital water resource for Southern California, supporting a tremendous agricultural industry and more than 17 million residents in one of the most economically productive regions of the world, including the cities of Los Angeles and San Diego. The state has a Colorado River basic annual apportionment of 4.4 million acre-feet per year. But for many years California has used over 5 million acre-feet per year, relying on system surpluses and the apportioned but unused waters of Arizona and Nevada. California's reliance on water above its basic apportionment has long been of great concern to the other Colorado River Basin states and Mexico. In recent years, Arizona and Nevada have begun using nearly their full apportionments, and dry weather has diminished opportunities for system surpluses. California now has no alternative but to reduce its reliance on the river. The California Plan must be implemented to allow the state to transition to its basic apportionment of 4.4 million acre-feet per year. Unless California can eliminate its reliance on surplus, the Southern California urban coastal plain will face massive water shortages.

The magnitude of our joint effort is extraordinary. We are reducing California's use of Colorado River water up to 800,000 acre-feet per year and must still continue to meet the region's water needs. This reduction is equivalent to the amount of water used annually by more than 5 million people in Southern California. Such a dramatic shift in resources is made possible through California Plan programs to conserve agricultural water and transfer it for urban uses, as well as groundwater storage and conjunctive use projects, and other water management programs. One of the most important components of the California Plan is the transfer of up to 200,000 acre-feet per year of water from the IID to SDCWA. This transfer will shore up the reliability of the region's water supply and help eliminate the dependence on surplus water to fill the Colorado River Aqueduct.

Progress to Date

California is at a crucial juncture in terms of its use of Colorado River resources. The urgent need to reduce river use is well understood by the Agencies. They have responded with the California Plan, which was developed in consultation with and is supported by the other six Colorado River Basin states and the Department of the Interior. To date, the Agencies have successfully fast-tracked a wide range of complex legal agreements and environmental documents needed to implement the Plan. The October 1999 Key Terms For Quantification Settlement Among the State of California, IID, CVWD and MWD identified 12 specific areas of conditions that need to be satisfied or waived prior to execution of the QSA and related documents. This includes the completion of the related environmental reviews, implementing interim surplus guidelines, implementing an inadvertent overrun and payback program relative to Colorado River water consumptive use, completing the SWRCB water transfer petition review process, and obtaining conserved water and a means to deliver the water for the San Luis Rey Indian Water Rights Settlement Act. The critical path for satisfaction of the conditions contains the environmental reviews and the subsequent SWRCB water transfer petition review process for the IID/SDCWA and the IID/CVWD/MWD option water transfers. The remaining conditions have been or are achievable within the required time frame for executing the QSA and related documents.

The following is a list of the major accomplishments (including program and project implementation) to date that either relate to the California Plan or aid in their effectiveness and implementation:

- December 1988 - IID/MWD Water Conservation and Use of Conserved Water and the associated 1989 Approval Agreement
- April 1998 - Water Conservation and Transfer Agreement between IID and SDCWA
- August 1998 - Water Exchange Agreement between SDCWA and MWD
- September 1998 - State funding of $235 million for canal lining and conjunctive use elements of the California Colorado River Water Use Plan
- October 1999 - Key Terms for Quantification Settlement Agreement Among the State of California, IID, CVWD and MWD (a prerequisite for Secretarial approval of transfers)
- November 1999 - Secretary of the Interior Final Rule on Offstream Storage of Colorado River Water (Interstate Banking)
- May 2000 - California Colorado River Water Use Plan (a prerequisite for Secretarial Colorado River Interim Surplus Guidelines)
- December 2000 - Public release of the draft QSA by QSA parties
- January 2001 - United States Fish & Wildlife Service Biological Opinion for interim Surplus Guidelines and river impacts of the QSA
- January 2001 - Record of Decision Colorado River Interim Surplus Guidelines
- May 2001 - Interim Surplus Guidelines Agreement between Arizona and MWD
- Draft Interim Surplus Guidelines Agreement between Southern Nevada Water Authority and MWD
- Quantification Settlement Agreement (QSA) and related environmental reviews and negotiations
- Proposed Land Management, Crop Rotation, Water Supply Program between PVID and MWD
- Draft Coachella Valley Water Management Plan
- All American Canal and Coachella Canal lining projects environmental reviews, state funding and construction agreements
- Drafts of the QSA and all related legal documents
- MWD, in cooperation with others, has initiated development of potential River water storage and conjunctive use programs in:
  - Hayfield Valley
  - Chuckwalla Valley
  - Cadiz Valley
  - Lower Coachella Valley
  - Arizona

The California water agencies have already spent millions of dollars toward formulating and securing approval of vital components of the California Plan, and will commit billions of dollars upon their implementation. In addition, the State of California has appropriated $235 million for canal lining and groundwater projects in furtherance of the California Plan. The Plan will be complemented by efforts to aggressively promote additional water conservation, water reuse, and local water supply development within the service area boundaries of each agency, which are discussed in the accompanying Agencies" statements.

California Plan — Implementation Timeline

California was given the time necessary to implement the water conservation and transfers when the Secretary of Interior adopted the Interim Surplus Guidelines (Guidelines) in January 2001. The Guidelines are essentially rules for operating Lake Mead that allow California to receive additional surplus water for 15 years, or through 2016. During this interim period, California is expected to implement the necessary water transfers and other programs. California has already obtained great benefit from this action, receiving enough water this calendar year to maintain a full Colorado River Aqueduct for urban water use. The Guidelines are contingent, however, upon California's successful completion of certain deadlines and milestones.

One critical deadline that must be met is the execution of the Quantification Settlement Agreement (QSA), the most important element of the California Plan, by December 31, 2002. The ability to execute the QSA by this deadline is the single most important issue facing us today. If the QSA is not executed by this deadline, the California Plan is at grave risk of unraveling. The Parties, in consultation with the Congress and the federal administration, have concluded that federal assistance - either through administrative actions or legislation - is needed to meet the QSA deadline.

The QSA is an agreement designed to settle longstanding differences between the Agencies and implement core water transfers, including the Imperial/San Diego transfer. An integral part of the California Plan, the QSA must be completed to continue the Guidelines and allow the California Plan to go forward. The Guidelines specifically provide that unless the QSA is executed by December 31, 2002, the surplus provisions that benefit Southern California will be suspended until such time as California completes all required actions and complies with reductions in water use reflected in the Guidelines. This means that the additional surplus water provided under the Guidelines could be revoked as early as calendar year 2003, resulting in the loss of up to 700,000 acre-feet per year of water to urban southern California.

Environmental Compliance Issues

The Agencies have worked with the United States Fish and Wildlife Service and the Bureau of Reclamation to reach agreement on an on-river habitat and backwater mitigation plan to address the impacts of transferring 400,000 acre-feet of water per year. The impacts include changing the point of water diversion from the river and location of water use. Additionally, agreements will be in place for in-valley measures to mitigate impacts of the programs in the area where the water conservation will occur. Likewise, project-specific environmental reviews are addressing project impacts. This includes canal lining projects and water storage and conjunctive use programs.

The remaining major federal issue regarding execution of the QSA is how to address potential environmental impacts of water transfers on the Salton Sea. The transfer of conserved water from the agricultural sector to the urban sector is essential in order to allow California to live within its 4.4 million acre-foot basic apportionment. However, water conservation in agricultural areas using Colorado River water, specifically the Imperial Irrigation District, may cause reduced agricultural drainage inflows into the Salton Sea.

The Salton Sea and its fishery are man-made. The Salton Sea was created in 1905 when floodwaters of the Colorado River broke through diversion facilities along the river near the international boundary and carried the entire flow of the Colorado River through the Alamo canal into the below sea level Salton Sink until the breach was finally closed in 1907. As provided for by presidential executive orders in the 1920's, the principal purpose of federal Salton Sink lands beneath elevation minus 220 feet since that time has been to serve as a drainage reservoir for the irrigation drainage waters from the Imperial, Coachella and Mexicali valleys. Without these drainage inflows, the Sea would evaporate and disappear. Freshwater fish species that were carried by the floodwaters died off as the salinity level of the Sea rose. Beginning in 1929, the California Department of Fish and Game created a salt water fishery by introducing various species of sport fish from the Gulf of California. Other exotic fish have been accidentally introduced to the Sea and have established populations.

Today the Salton Sea is used by many species of migratory birds, including certain endangered species. Some of these birds rely on the fish in the Sea for their food source. Because of evaporation, the Sea's salinity has increased steadily over the years, and will continue to increase absent intervention. Now at a salinity of 44,000 parts per million, which is 25 percent saltier than the Pacific Ocean, the Salton Sea is approaching a "hypersaline" condition, in which the reproduction and survival of fish is jeopardized. It has been estimated that under current conditions, the Sea will reach a critical salinity level that is unable to support a fishery in 7 to 25 years.

The causes of increasing salinity and environmental decline of the Salton Sea extend far beyond any effect of the transfers. Congress recognized this fact in the 1998 Salton Sea Reclamation Act (Public Law 105–372) and directed that the transfers be included in the baseline condition of proposed Salton Sea reclamation options. The legislation acknowledged the transfers' importance to California, the other Colorado River Basin states, and Mexico.

The 1998 reclamation law required a feasibility study, providing reclamation options, be submitted to Congress by January 1, 2000. This study has yet to be completed. The QSA, and its 2002 deadline for execution, is therefore ahead of the federal Salton Sea reclamation effort. Because of this, the Agencies must separately address environmental compliance related to the water transfers at the Salton Sea. This is difficult because the environmental impacts related to the Endangered Species Act are temporal in nature and not easily quantified. The best scientific analysis available has shown that the Salton Sea will reach the critical hypersaline environment 1 to 9 years earlier if the QSA transfers are implemented. Absent a com-

prehensive solution, the Salton Sea will soon reach a hypersaline level with or without the QSA water transfers.

These matters are beyond the Agencies direct control to resolve. Accordingly, the Agencies have met extensively with Department of the Interior officials, including the Bureau of Reclamation and U.S. Fish and Wildlife Service, to determine how the QSA may be executed within the time frame required. We are very appreciative of the assistance we have received and the recognition that this is an urgent matter. In August, Congressman Hunter introduced the Colorado River Quantification Settlement Facilitation Act (H.R. 2764), to address the Salton Sea issues and other matters important to the California Plan. H.R. 2764 provides $60 million for the first phase of Salton Sea reclamation, if Congress authorizes such reclamation before 2007. If reclamation were not authorized by that time, the funds would be used for habitat enhancement programs to protect endangered species that use the Salton Sea. The measure would also provide $53 million for small off-stream water management reservoirs to improve water conservation and river management, which could also provide improved water supply management options for Mexico. The Bureau of Reclamation estimated that last year about 300,000 acre-feet was lost from Colorado River reservoir storage because of the inability to re-regulate lower Colorado River flows. More recently, Congressman Calvert's H.R. 3208, the Western Water Security Enhancement Act, would authorize the appropriation of $60 million for activities to address environmental impacts on the Salton Sea associated with implementation of the QSA.

The Agencies have also pursued a similar course of action with California's state administration and legislature to address compliance with the California Endangered Species Act and a special provision of California law dealing with "Fully Protected Species." The State of California places a high priority on implementing the California Plan and the associated QSA, and the Secretary for the California Resources Agency, Mary Nichols, is chairing a broad-based group working to solve the state issues. All of the parties recognize the urgency of getting a bill before the California legislature in January 2002.

Federal Administrative or Legislative Actions

Mr. Chairman, the California Plan and its related agreements came into existence at the insistence of and with the welcome coordination of the federal government, expressed through the Secretary of the Interior and the Bureau of Reclamation, which have responsibility for managing the Colorado River. I believe there is a recognition, and rightfully so, that the federal government has a large stake in the California Plan and QSA and shares with us a responsibility to effect their implementation. Additionally, the Colorado River Basin states deserve a workable, credible, and specific plan to meet the objectives of the Interim Surplus Guidelines and the California Plan. The states deserve no less, as the rightful beneficiaries of a settlement of these historic entitlements. To accomplish this goal we should continue along the following course:

First, Congress needs to address the reclamation of the Salton Sea as a separate matter consistent with the 1998 Salton Sea Reclamation Act. Each of the Agencies has passed a resolution in support of expeditiously addressing the reclamation of the Salton Sea. Congress through the 1998 Act assumed a decision responsibility for reclamation of the Salton Sea and established a federal role and responsibility for any reclamation actions. Reclamation of the Sea cannot and should not be the responsibility of the Agencies.

Secondly, in order to address the outstanding issues relating to the Salton Sea which I have identified, there may be administrative and legislative options that need to be pursued to accomplish the objectives of the QSA. At the administrative level, we have been working closely with the Department of the Interior, the Bureau of Reclamation, and the Fish and Wildlife Service to expeditiously address the remaining issues. At the legislative level, Congressman Hunter introduced H.R. 2764 to address the Salton Sea issues and other matters important to the California Plan, and Congressman Calvert has included in H.R. 3208 substantial funding to deal with Salton Sea environmental issues. Depending upon the administrative solutions available, complementary action by Congress may be needed as an integral part of the solution and in order to meet the deadlines we face.

In concluding, I would like to restate the Agencies" commitment to executing the QSA, maintaining the Colorado River Interim Surplus Guidelines for the full interim period, and implementing the California Plan to allow California to live within its basic apportionment.

And finally, we would like to express our appreciation for the opportunity to appear before the Committee today to discuss these very important matters. We look forward to addressing any questions you may have.

Statement of Tom Levy, General Manager and Chief Engineer, Coachella Valley Water District

Introduction and Background

My name is Tom Levy. I am general manager-chief engineer of the Coachella Valley Water District.

The Coachella Valley Water District provides a variety of water-related services throughout a 1,000-square-mile service area in the southeastern California desert. It is primarily located in that portion of Riverside County commonly referred to as the greater Palm Springs area but it also provides domestic water service and sanitation in a portion of Imperial County along the Salton Sea and its boundaries extend into a small part of San Diego County.

The district was founded under the County Water District Act of the State of California in 1918. It acquired regional flood control responsibilities when it absorbed the Coachella Valley Stormwater District in the late 1930s. In addition to stormwater protection, the district provides irrigation water from the Colorado River to about 70,000 acres of farmland. It provides domestic water to nearly 83,000 homes and businesses in the cities and communities of Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, Thermal, Mecca, Oasis, Desert Shores, Salton City, North Shore, Bombay Beach and surrounding areas. Wastewater collected from nearly 72,000 sanitation hookups flows to six reclamation plants where most is converted to high quality water for reuse for golf course and greenbelt irrigation. The district also operates groundwater recharge facilities for much of Coachella Valley.

While all of Southern California is a desert, with an average annual rainfall of only about 12 inches on the coastal plain, Coachella Valley is especially arid with only about 3 inches of precipitation annually. There are no major rivers flowing through the area so most of Southern California's water supply must be imported from great distances - the eastern Sierra, Northern California and the Colorado River. Coachella Valley Water District has contracted to receive water from both Northern California and the Colorado River.

All domestic water the district delivers is pumped from a large groundwater basin, also in a state of overdraft. It currently is replenished by natural flows of snowmelt from surrounding mountains and by imported water from the Colorado River through a contract with the Bureau of Reclamation and from the California State Water Project.

Supply Challenges

Colorado River Supply: California's Colorado River reliable supply is limited by the U.S. Supreme Court and by the California Limitation Act to 4.4 million acre-feet per year. Accompanying charts show the division of the river's waters between the states and between agencies within California. Still, during the last 10 years the state has used more than S million acre-feet annually. The loss of 600,000 to 800,000 acre-feet of water annually to Southern California when California is limited by "normal" Colorado River flows carries with it significant adverse economic impacts unless enough time is granted to implement essential reductions in use and development of alternative sources.

Colorado River Water Distribution

Average annual flow	13.8 million acre feet

Basin divisions

Upper basin states*	7.5 million acre feet
Lower basin states**	7.5 million acre feet
Lower basin (if available)	1 million acre feet
Mexico	1.5 million acre feet
Evaporation & other losses	1 million acre feet
Total basic divisions	18.5 million acre feet

Lower basin state allotments

California	4.4 million acre feet
Arizona	2.8 million acre feet
Nevada	300,000 acre feet

Priorities within California

1. To irrigate 104,500 acres In Palo Verde	3.85
2. To irrigate 25,000 acres in Yuma Project	million
3a. Imperial Irrigation & Coachella Valley	acre feet
3b. To irrigate 16,000 more acres in Palo Verde	total
4. Metropolitan Water District of S. California	550,000 acre feet
4.4 million acre-feet basic entitlement	
5a. Metropolitan Water District	500,000 acre feet
6b. City & County of San Diego	112,000 acre feet
6a. Imperial Irrigation & Coachella Valley	300,000 acre feet
6b. To irrigate 16,000 more acres in Palo Verde	total
Total divisions within California	5.362 million acre feet

**Wyoming, Utah, Colorado & New Mexico* ***California, Nevada & Arizona*

Now that Arizona has developed uses for its full entitlement, excess water for California is a luxury of the past. Realizing this, and with prodding from the other basin states and the Secretary of the Interior, California and its Colorado River water purveyors have been working for several years on a plan to ultimately reduce the state's demand on the river to its basic entitlement. While negotiations continue to resolve individual agency supply concerns, enough progress had been made by the beginning of this year to earn the Secretary of the Interior's concurrence on Interim Supply Guidelines which allow the state 15 years to orderly reduce its demand on the river to its basic entitlement. These guidelines are conditional on the Quantification Settlement Agreement being operational by December 31, 2002. Arizona and Metropolitan Water District of Southern California MWD) have worked out an agreement where that state would allow California surplus supplies in exchange for MWD protecting Arizona from shortage impacts. Currently, progress is being made concerning environmental impact documents for the

Quantification Settlement Agreement. All seven Colorado River Basin states support implementation of the California Plan to significantly reduce the state's Colorado River consumption.

Unless the Quantification Settlement Agreement is executed by December 31, 2002, urban Southern California could lose up to 750,000 acre-feet per year of Colorado River water, resulting in a water crisis with severe economic impacts. To meet this schedule, all environmental compliance actions must first be secured. This requires congressional action because the Fish and Wildlife Service is unable to grant necessary permits before mitigation is authorized and funded. State legislation is necessary to address the California Endangered Species Act and Fully Protected Species law.

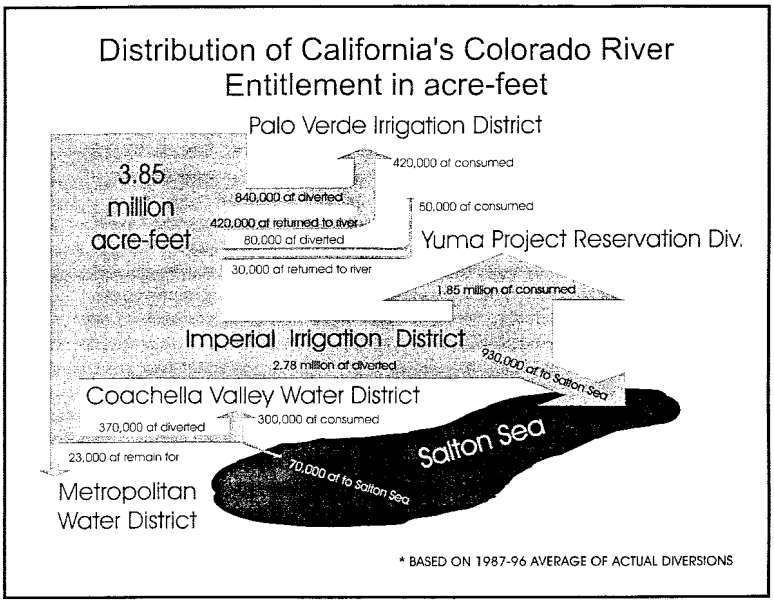
The Interim Surplus Guidelines state that "In the event that the California contractors and the Secretary have not executed such agreements (Quantification Settlement Agreement and related agreements) by December 31, 2002, the interim surplus determinations under Sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended and will instead be based upon the 70R Strategy..." The 70R Strategy is more conservative than the criteria that was in place prior to the Interim Surplus Guidelines and would result in a "normal" determination, *i.e.,* no surplus water, and

California would be limited to 4.4 million acre-feet for 2001 and 2002. This would have resulted in a 30 percent reduction in the water supply to coastal southern California if it would have occurred this year. The shortage would move out from coastal southern California and impact the rest of the state. The economic impacts would be significant and would make the power crisis look insignificant.

Prior to signing the Interim Surplus Guidelines, the Secretary had tremendous flexibility in declaring surpluses on the River. However, by agreeing to the Interim Surplus Guidelines, the Secretary has limited her discretion on surpluses and she cannot change the criteria without formal rule making and environmental review. We are running out of time to accomplish any changes prior to the December 31, 2002, deadline assuming that the other basin states would agree to a delay or changes in the Interim Surplus Guidelines. Since they agreed to the Interim Surplus Guidelines, the runoff on the Colorado River has been below normal and the level in the reservoirs has dropped several million acre feet. This makes their agreement less likely.

Some may argue that we can meet the coastal southern California water needs through other programs with the California Colorado River agricultural agencies such as the recently announced Palo Verde Irrigation District/ MWD land fallowing program and the purchase of 16,000 acres of land in the Palo Verde valley by MWD. However, under the Law of the River, Colorado River water flows through the priority system with the agencies in between the Palo Verde Irrigation District and MWD having the right to use that water without any charge. This results in the lack of reliability of those supplies.

If California is limited to 4.4 million acre-feet from the Colorado River, will the California Colorado River agriculture agencies continue to get 3.85 million acre-feet or will the Governor or the Secretary take action to attempt to take water from them? How will the Salton Sea be addressed if immediate action is necessary to save the California economy?



Without legislative action this year, the Quantification Settlement Agreement, Colorado River surplus guidelines, the seven state commitments and the ability of California to meet is obligations to stay within its Colorado River allocation would all be negated.

This concern is voiced by other Colorado River Basin states in attached letters from Wyoming, Colorado and Nevada.

The sought federal legislation would also authorize development of off-stream water management reservoirs near the All–American Canal to enhance off-stream storage capability. It would also enhance the ability of Mexico to make efficient use of its Colorado River entitlement and would assist the development of a reliable water supply for the San Luis Rey Indian Water Rights Settlement.

The Salton Sea was created shortly after the turn of the century when man accidentally diverted the entire flow of the Colorado River into the Salton Sink for two years. It has been maintained since by Colorado River water diverted to irrigate the Imperial and Coachella Valleys in California and the Mexicali Valley in Mexico.

Today the sea is a primary resting place for migratory birds, including some endangered species.

With a surface elevation nearly 220 feet below sea level, the only way water leaves the Salton Sea is through evaporation which leaves the salts behind making today's sea saltier than ocean water. There has been much work done locally and in Washington toward saving the Salton Sea but this must remain a separate issue. We are members of the Salton Sea Authority and are committed to the restoration of the Salton Sea.

Originally, Congress was to have a plan for the restoration of the Salton Sea ahead of the water transfers and it would have addressed the restoration before the approval of the water transfers occurred. Unfortunately, the plan that was submitted to Congress in January 2000 failed to conform to the direction provided in the 1998 Salton Sea Restoration Act and was rejected. The Salton Sea Authority and the Bureau of Reclamation are developing a feasibility report which will propose a plan to restore the Sea. It appears the all viable solutions will require some form of fallowing. The Salton Sea is becoming more saline each year and will change to the point that the fisheries will cease to exist and the birds will leave. Without the intervention of man, the Sea will change from what we now know without any transfers. The impact of the transfers on the Sea is to reduce the water flowing into it. Studies by the Bureau of Reclamation show the Quantification Settlement Agreement transfers to accelerate the demise of the Sea from one to eight years. The Quantification Settlement Agreement parties assumed that the necessary state and federal permits for endangered species at the Salton Sea would have been addressed by the restoration plan and therefore, did not include the cost of mitigation in the settlement. How to address the impacts of temporal impacts is not clear in the endangered species legislation. Requiring the water transfers to fully mitigate for the maximum possible impacts on the Sea would cost between $500 million and $1 billion and would kill the Quantification Settlement Agreement. Habitat such as wetlands adjacent to the sea can be created to address the endangered species needs resulting from Colorado River water conservation and transfer programs which will reduce inflow to the sea.

Coachella Valley Water District Water Budget

(in thousand acre-feet)

Lower Valley		
Base		330
Less:		
Canal lining	26	
Miscellaneous/Indian Present Perfected Rights	3	—29
Approval Agreement		20
Imperial Irrigation District Block 1		50
Imperial Irrigation District Block 2		50
Metropolitan Water District - State Water Project		35
Total		***456***
Upper Valley		
Metropolitan WD - SWP entitlement transfer (average)		50

Groundwater supply: The Coachella Valley groundwater basin has a large supply of water, however, it is in a state of overdraft. We are currently in the public review stages of a valley-wide water management plan which will resolve the overdraft. The water supply to allow us to eliminate the overdraft is provided through the water we obtain under the Quantification Settlement Agreement (See CVWD Water Budget). We obtained a total supply for the lower Coachella Valley of 456,000 acre-feet and 50,000 acre-feet for the upper Coachella Valley through the transfer of 100,000 acre-feet of State Water Project entitlement from MWD with MWD retaining the rights to receive the water in dry years. Without this supply, we will become a buyer of water to prevent the economic impacts to the valley of continuing the overdraft.

The plan requires implementation of a variety of conservation, conjunctive use, importation and reclamation activities designed to reduce use without damaging the valley's lifestyle or joint economic bases of tourism and agriculture.

It involves more use of Colorado River water to reduce the demand on the groundwater basin and increased availability of state project water for exchange to in-

crease the availability of water for groundwater recharge. These issues are closely tied to current negotiations concerning the Colorado River Quantification Settlement Agreement.

Measures and Assistance Needed

Probably the most important issue facing Southern California water users which requires state and federal participation is the Colorado River Quantification Settlement Agreement. To go forward, we need congressional help in the form of $60 million for enhancement programs to protect endangered species habitat around the sea and direction to accept and implement a habitat conservation plan for Imperial Valley and the Salton Sea.

State legislation is needed to address the California Endangered Species Act and Fully Protected Species law.

Restoration of the Salton Sea is an issue that Congress and the California legislature need to address. However, the schedule for this important action is behind the implementation of the Quantification Settlement Agreement and should not result in failure of the Quantification Settlement Agreement and the resolution devastating economic impacts on California.

Concluding Remarks

Thank you for allowing us to voice our concerns about the California's water future. The importance to passage of Congressman Hunter's H.R. 2764 to help us facilitate the successful implementation of the Quantitative Settlement Agreement cannot be overemphasized.

If you desire additional information about Coachella Valley Water District or some of the issues I have mentioned here we would welcome a visit to our web site: www.cvwd.org

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Statement of The Metropolitan Water District of Southern California

The Metropolitan Water District of Southern California (Metropolitan) is actively engaged with Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), and San Diego County Water Authority (SDCWA) (collectively, the Agencies) in the implementation of California's Colorado River Water Use Plan and the associated Quantification Settlement Agreement (QSA) to reduce California's dependency on Colorado River water. Metropolitan, in coordination with others, is undertaking the development of voluntary cooperative water conservation/transfers, water storage and conjunctive use programs, other cooperative water supply programs, water exchanges, dry-year supply programs, and interim surplus guidelines" agreements as part of the effort to reduce the state of California's Colorado River water use to its basic annual apportionment of 4.4 million acre-feet, a reduction of about 800,000 acre-feet per year from its highest use of about 5.2 million acre-feet per year in the past ten years.

In addition to these efforts, Metropolitan has undertaken major investments to lessen its demand for imported water, meet future demands, and improve supply water quality. This is being done through significant investments in increased water conservation, recycling, local projects, groundwater recovery programs, in-service area storage and conjunctive use projects, watershed management, source-water quality protection, and improved desalting and other water treatment technologies. Coordination of these efforts is carried out through Metropolitan's Integrated Resources Plan and the Plan's strategies of supply reliability and affordability, and water quality enhancement and protection.

This statement complements the joint California Plan progress report of the Agencies submitted by Maureen Stapleton, General Manager, San Diego County Water Authority, to the Subcommittee, by providing a brief overview of Metropolitan-specific efforts to increase its water supply reliability, diversify its sources of supply, reduce the region's reliance on imported water, and improve the effective use of local water supplies.

Metropolitan is a public agency established under a legislative act in 1928 to secure imported water supplies for its member agencies. Metropolitan's 5,200-square mile service area stretches some 200 miles along the coastal plain of southern California and encompasses parts of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties. More than 17 million people reside within Metropolitan" service area.

Today, Metropolitan provides over 50 percent of the water used within its service area. Metropolitan receives water from two principal sources, the Colorado River, via the Colorado River Aqueduct, and the State Water Project (northern California water), via the California Aqueduct. To further help meet the water needs of mem-

ber agencies, Metropolitan assists in the development and effective use of local resources, beginning in the late 1950s with cooperative groundwater recharge programs and evolving over time to member agency partnerships for water conservation, water recycling, groundwater recovery, and water storage and conjunctive use programs.

The 444-mile State Water Project (SWP) is owned by the State of California and operated by the California Department of Water Resources. The SWP transports water released from Oroville Dam and flows that have traveled into the San Francisco Bay/Sacramento–San Joaquin Delta Estuary (Bay/Delta), south via the California Aqueduct to four delivery points near the northern and eastern boundaries of Metropolitan. Metropolitan is one of 29 agencies that have contracts for water service with the California Department of Water Resources.

Metropolitan's SWP contract is for a total of 2,011,500 acre-feet per year. The contracted amount was increased in 1964 from 1,500,000 acre-feet per year principally to offset the impending loss of a portion of Metropolitan's Colorado River supply resulting from the 1963 United States Supreme Court decision in Arizona v. California. Improvement of the supply reliability of the SWP and the development of comprehensive long-term solutions to the environmental problems in the Bay/Delta system are the focus of the CALFED process and legislation.

Under "The Law of the River", California is apportioned the use of 4.4 million acre-feet from the Colorado River each year plus one-half of any surplus water that may be available for use in the Lower Basin. Metropolitan has a legal entitlement to Colorado River water under a permanent service contract with the Secretary of the Interior.

The Colorado River Aqueduct, which is owned and operated by Metropolitan, transports water from the Colorado River approximately 242 miles to its terminus at Lake Mathews in Riverside County. It has the capability to divert about 1.3 million acre-feet per year. Under the priority system that governs the distribution of Colorado River water made available to California, Metropolitan holds the fourth priority right to 550,000 acre-feet per year. This is the last priority within California's annual basic apportionment of 4.4 million acre-feet. Metropolitan holds the fifth priority right to 662,000 acre-feet of water per year, which is in excess of California's annual basic apportionment. Historically, Metropolitan has been able to take advantage of its fifth priority right entitlement as a result of the availability of surplus water and Colorado River water apportioned but unused by Arizona and Nevada.

Over the last ten years, California entities have diverted 4.5 to 5.2 million acre-feet annually from the Colorado River, relying on system surpluses and apportioned but unused waters of the other Lower Basin states that will not be available in the future. The Colorado River Board of California, in consultation with the California Department of Water Resources, Metropolitan, CVWD, IID, Palo Verde Irrigation District (PVID), SDCWA, the City of Los Angeles, and others, has developed California's Colorado River Water Use Plan (California Plan). The California Plan provides a framework and timetable for the reduction of California's use of Colorado River water to its annual basic apportionment through reallocation of water supplies among the involved water agencies (voluntary water conservation/transfers), cooperative water storage and conjunctive use programs, and by other means.

If no new agreements were executed and no surplus water were available, Metropolitan's annual supply of Colorado River water would have a shortfall of about 600,000 acre-feet per year that can and should be avoided. The statewide economic and environmental consequences of this shortfall would simply not be acceptable. There is no substitute for success in implementing a plan for reducing California's dependency on Colorado River water that is acceptable to the Secretary of the Interior and the other Basin states.

Multi-billion dollar investments and contributions that have been and are being made by Metropolitan or by Metropolitan in cooperation with others that directly reduce California's dependence on Colorado River water include:

Colorado River Water Agriculture to Urban Water Transfers

- December 1988 IID/MWD Water Conservation and Use of Conserved Water Agreement and Associated 1989 Approval Agreement - yield of 100,000 to 110,000 acre-feet per year (QSA core transfer) [PROJECT OPERATIONAL]
- April 1998 Water Conservation and Transfer Agreement between IID and SDCWA—yield of 130,000 to 200,000 acre-feet per year, and August 1998 Water Exchange Agreement between SDCWA and MWD (QSA core transfer)
- Coachella Canal [begin construction October 2002] and All–American Canal (begin construction September 2003] Lining Projects - yield of 94,000 acre-feet

per year, including 16,000 acre-feet per year to facilitate implementation of the San Luis Rey Indian Water Right Settlement (QSA core transfer)
- May 1992 PVID/MWD Land Management, Crop Rotation, and Water Supply Test Program - yield of 186,000 acre-feet from 1992 to 1994 [PROJECT COMPLETED]
- Proposed PVID/MWD Land Management, Crop Rotation, and Water Supply Program- yield of up to 111,000 acre-feet per year [PRINCIPLES OF AGREEMENT APPROVED]
- Acquisition of San Diego Gas and Electric Company properties in the Palo Verde Valley area for inclusion in the PVID/MWD proposed program [EXECUTED]

Investments in Colorado River Water Storage Programs

- June 1984 MWD/CVWD/Desert Water Agency Advance Delivery Agreement—multi-year yield of 600,000 acre-feet based on total storage capability [PROJECT OPERATIONAL]
- October 1992 MWD/Central Arizona Water Conservation District Demonstration Project on Underground Storage of Colorado River Water - yield of 81,000 acre-feet [PROJECT COMPLETED]

Proposed Colorado River Storage and Conjunctive Use Programs "with a goal of 3 million acre-feet of collective storage and a collective put-and-take of between 0.3 and 0.4 million acre-feet per year

- Hayfield Valley [IN PROGRESS] 800,000 acre-feet of storage, recharge and recovery of 150,000 acre-feet per year
- Chuckwalla Valley [UNDER EVALUATION] 500,000 acre-feet of storage, recharge and recovery of 150,000 acre-feet per year
- Cadiz Valley [FINAL EIS RELEASED] 1 million acre-feet of storage, recharge and recovery of 150,000 acre-feet per year including potential withdrawal of native groundwater
- Lower Coachella Valley [UNDER EVALUATION] recharge and recovery of 100,000 acre-feet per year over a ten year cycle
- Arizona [UNDER EVALUATION] 1 million acre-feet of storage

Storage and conjunctive use programs in Lower Coachella Valley and Arizona would provide the capability of storing Colorado River water when the Colorado River Aqueduct is being fully utilized for operational reasons, including transport of water stored in off-aqueduct groundwater basins.

Other Colorado River Water Measures for Improved Reservoir System Operations and Water Conservation

- Secretary of the Interior's Colorado River Interim Surplus Guidelines [EXECUTED]
- Metropolitan's Interim Surplus Guidelines Agreement with Arizona [EXECUTED]
- Proposed Metropolitan's Interim Surplus Guidelines Agreement with Southern Nevada Water Authority [IN PROGRESS]
- Secretary of the Interior's Final Rule on Offstream Storage of Colorado River Water (Interstate Banking) [EXECUTED]
- Proposed Small Offstream Water Management Reservoirs and Associated Facilities near the All–American Canal [INITIATE ENVIRONMENTAL DOCUMENTATION AND DESIGN 2002]

Complementary

These actions being taken by Metropolitan lessen the demand for imported water and increase water supply reliability.

- Southern California investments of more than $1.2 billion in water conservation and water recycling (includes 1.6 million ultra-low-flush toilets, 3.2 million low-flow showerheads, and 15,500 water efficient clothes washers)
- Metropolitan investments of over $226 million to help develop more than 151,000 acre-feet per year of additional water supplies from local water recycling, groundwater clean-up and water conservation programs
- Metropolitan execution of 22 agreements to provide financial assistance to projects that recover contaminated groundwater with total contract yields of about 81,500 acre-feet per year
- Metropolitan execution of 53 agreements to provide financial assistance to projects that recycle water with total contract yields of about 233,400 acre-feet per year

- Through the development of cooperative Local Groundwater Storage Programs, Metropolitan currently has 370,000 acre-feet of water in storage
- Water transfers involving State Water Project water with San Bernardino Valley Municipal Water District, Semitropic Water Storage District, and Arvin–Edison Water Storage District that can provide between 90,000 acre-feet per year during a dry period
- Considering additional water transfer agreements with interested parties in California's Central Valley
- Construction of the $2.1 billion, 800,000 acre-foot Diamond Valley Lake storage reservoir, doubling the amount of surface storage available in southern California
- Construction of the Inland Feeder Project at an estimated construction cost of $1.2 billion to provide greater water supply management opportunities

These are only the highlights of the diverse programs being carried out by Metropolitan to help meet its, the Agencies, and the State's water supply needs. Metropolitan is committed to the Proposed Quantification Settlement Agreement, maintaining the Colorado River Interim Surplus Guidelines for the full interim period, and implementing the California Plan to allow California to reduce its dependence on Colorado River water.

Metropolitan appreciates the opportunity to provide testimony to the Subcommittee on this important matter of implementing the California Plan. We remain available to answer any questions that Members of the Subcommittee may have on our efforts to implement the California Plan.

Statement of the Imperial Irrigation District, Imperial, California

The lands within the Imperial Irrigation District hold the largest share of California's Colorado River water apportionment. The Imperial Irrigation District holds these water rights in trust for the landowners. Recognizing that it would take large amounts of water to turn a harsh desert environment into a vast agricultural empire, Imperial Valley pioneers appropriated, under California law, approximately seven million acre-feet of Colorado River water at the beginning of the twentieth century.

Early settlers in the Imperial Valley constructed a canal, following the gravity path through Mexico, so as to divert and use water from the Colorado River. This was done without the aid of the federal government and resulted in the cultivation of a vast area of the southern California desert. Later, Valley residents gave up most of their seven-million-acre-feet water right as part of a compromise that was the foundation for the 1929 Boulder Canyon Project Act. The Act authorized construction of Hoover Dam, the All American Canal and the Imperial Diversion Dam. Today, IID holds a Present Perfected water right in the amount of 2.6 million acre-feet per year. This right, recognized by the Supreme Court, is the economic engine that drives one of the largest food and fiber production areas in the nation.

This history means that IID holds a permanent service right to Colorado River water and therefore does not purchase water from the Bureau of Reclamation as do other irrigation agencies in the West. Nor does IID have to engage in the periodic process of obtaining a renewal of its water service contract. Furthermore, IID has fully repaid the capital costs of those portions of its water delivery system financed by the United States (Imperial Diversion Dam and the All American Canal), and IID currently operates and maintains those facilities under contract with the Department of the Interior.

Because IID's water right is senior to the Colorado River rights of California municipal users, a tension naturally exists between the agricultural community and the urban water users. The farmers want to keep producing high quality food and fiber and the cities want more water for their municipal and industrial needs. This tension is exacerbated because California will soon be limited to 4.4 million acre-feet of Colorado River water annually, about 750,000 thousand acre-feet less than is currently being diverted. With that limitation, even the existing demands on the Southern California coastal plain cannot be adequately met without water transfers from the agricultural sector to the urban sector. It is projected that in less than 20 years the population of the Lower Colorado River Region, including areas in Mexico, will increase 67 percent over 1990 numbers. This means that there will be more than 38 million people living in the region.

All of this is happening at a time when the San Francisco Bay–Delta is constraining the movement of northern California water to Southern California, when endangered fish and bird species may require more water from the Lower Colorado

River system, and when there is increasing concern over the Colorado River delta in Mexico.

For many years the Imperial Irrigation District has recognized that it could be part of the solution to California's water problems. Over the last 50 years the IID has proactively promoted water conservation, investing about $160 million (1996 equivalent dollars) on water conservation measures prior to 1988. IID estimates that more than 100,000 acre-feet of water per year have been saved as a result of these measures. In addition, over the past several decades Imperial Valley farmers have invested about $340 million in on-farm improvements and water efficiency measures conserving an additional 385,000 acre-feet annually.

In a further effort toward improving water use efficiency, IID entered into an historic 1988 agreement with the Metropolitan Water District of Southern California (MWD) to conserve approximately 110,000 acre feet per year, which is now available for diversion and use by MWD. The water conserved for MWD has been developed through a combination of system and on-farm efficiency measures, with the savings verified by a panel of experts. Following implementation of the IID–MWD agreement, IID saw that demands for water would continue to increase in urban Southern California, and the agency approached MWD in the early 1990's about entering into another water conservation and transfer agreement similar to the one executed in 1988. MWD, in part believing that there would be sufficient unused apportionment water from Arizona and Nevada through the year 2030, did not see the need for another water conservation/transfer program. But the San Diego County Water Authority (SDCWA) did see the need. SDCWA believed a water crisis was imminent, knew its water demand would double by the year 2020, and recognized that the SDCWA was junior in priority to other MWD member agencies.

San Diego knew that market-based agricultural-to-urban transfers would help meet Southern California's water demands. In April of 1998 IID and SDCWA entered into a water conservation and transfer agreement for up to 200,000 acre-feet, to be developed primarily through on-farm conservation measures. Since a great deal of the less-expensive conservation opportunities have already been undertaken within IID, this leaves more expensive conservation measures to be funded by the SDCWA. Investment in these measures by San Diego is rewarded by obtaining for a period of years conserved water from IID's very senior water entitlement that is largely immune from shortages. On the other hand, the IID–SDCWA agreement allows the IID farmers to farm the same amount of land with less water, thus avoiding conservation measures such as fallowing that would have a significant impact on the Imperial Valley economy. The IID–SDCWA transfer agreement presents the classic win-win solution to a very difficult resources supply problem.

Consistent with IID's long history of collaboration in programs necessary to ensure the long term sustainability of Colorado River water use in the southwestern United States, IID has again agreed to assist in making water available for urban southern California through the Quantification Settlement Agreement (QSA). Through the QSA IID has put its water assets on the table to help solve water supply problems facing the Coachella Valley Water District, MWD, and SDCWA. Some of the elements of the IID voluntary contributions in the QSA include:

1. An offer to voluntarily cap IID's entitlement at 3.1 million acre-feet—170,000 acre-feet less than was actually used in 1997, and 300,000 acre-feet less than IID's highest annual use.
2. An offer to make available up to 300,000 acre-feet of conserved water under long-term transfer agreements (up to 200,000 acre feet under the SDCWA agreement and 100,000 acre feet to the Coachella district or MWD).
3. An agreement providing that all future and current conservation projects within IID will be deducted from the 3.1 million acre-foot cap, including:
   a) the IID/MWD 1988 agreement to conserve 110,000 acre-feet through canal lining, system reservoirs, and other actions
   b) the All American Canal lining project, which will yield 67,000 acre feet
   c) the IID/SDCWA transfer of conserved water up to 200,000 acre feet
   d) the IID/CVWD–MWD transfer of conserved water totaling 100,000 acre feet
   e) forbearance of IID's senior right to priority 6 water equaling 300,000 acre feet
   f) forbearance of IID's senior right to priority 7 water (unquantified surplus).

It is important to appreciate the contribution that IID is making in order to support the QSA and the resolution of the southern California water supply problem. As noted above, IID has in the past used as much as 3.2 million acre-feet of Colorado River water in one year. As a result of the QSA, IID's use will be voluntarily capped at 3.1 million acre-feet per year for the life of the QSA. From that capped

amount there will be deducted all of the conserved water to be transferred to the urban sector, leaving IID with about 2.6—2.7 million acre-feet per year—a reduction of 700,000 to 800,000 acre-feet annually. IID's agreement to support the water transfers and to live for a period of years with a much smaller water supply is critical to the success of the QSA.

However, it must be understood by the Congress and the Administration that these contributions, and the other benefits of the historic Quantification Settlement Agreement, cannot come to fruition unless the extreme difficulties with both federal and state Endangered Species Act compliance can be overcome. A solution will require support in the form of cooperation from state and federal agencies as well as funding and other resources. Again, IID has worked diligently to help find solutions to these problems without unreasonably increasing the financial burden on IID or its landowners and without harming the economic viability of the Imperial Valley.

It is also important to emphasize that transferring water out of an agricultural community is always controversial, primarily because water is the lifeblood of the local community. The IID Board of Directors is elected by all of the voters in the Imperial Valley, as opposed to just the landowner/farmers. This means that the entire Imperial Valley community is interested in, and directly connected to, the water transfers and the overall judgment as to the merits of the QSA. The people of the Imperial Valley are likely to continue to support the QSA so long as it remains a win-win deal for all concerned. However, if implementing the QSA results in great hardship on the Valley, or causes negative impacts on the Valley economy, support for the water transfers and the QSA will likely evaporate.

In summary, IID will continue to work in collaboration with others to help find and craft solutions to California's water supply problems so long as IID's interests are protected throughout the process. IID is committed to following through with the implementation of the water transfers and the QSA, but it is imperative for both Congress and the Administration to understand that water transfers of this magnitude will require the cooperation of the state and federal governments in addition to the QSA parties, and that the economic security and viability of the Imperial Valley should not be compromised simply to provide water supply reliability for urban southern California.

Mr. CALVERT. Thank you.

Mr. Graff, you are recognized.

STATEMENT OF TOM GRAFF, REGIONAL DIRECTOR, ENVIRONMENTAL DEFENSE FUND

Mr. GRAFF. Thank you, Mr. Chairman, members. There are a lot of common themes so I am going to try to move quickly through my testimony, and maybe we will get more exposure of some of the complications in the Q&A period.

Just a couple things about my credentials here, such as they are. In addition to being regional director of Environmental Defense, I did serve for two and a half years many years ago as a member of the Colorado River Board of California, 1980 to 1983, and I was a participant in then Environmental Defense Fund's publication in 1983 of a document called, "Trading Conservation Investments for Water," which promoted many of the ideas that we have been discussing already here at this hearing. Just by way of linkages with other aspects of California's water situation, that was shortly after the defeat of the peripheral canal referendum in 1982.

As my written testimony states, we give great credit to the Federal, state and regional agencies who have been doing remarkable work in getting us as far as they have in reaching solutions to the Colorado River's shortage problems. And in particular, I want to credit the voluntary conservation and transfer agreements, particularly the recent one between San Diego and IID and the even more remarkable Quantification Settlement Agreement, which actually got the four agencies and others all on one page as to how to allo-

cated California's limited entitlement share to Colorado River waters.

I also want to note, as has been noted already, that others would benefit from California's implementing the California Plan and the QSA. In particular, since we are in Nevada, I think it is clearly in Nevada's interest that these agreements go forward, and I just want to say, since we have representatives both from Nevada and Utah on this panel, that they have been among the more creative of the states of the Basin in nudging us all toward actually considering interstate water marketing in years to come.

But as we all know, these—I also should mention as a potential problem, although not so much with these agreements, in my judgment, there are very important questions about deliveries of water to the Colorado River Delta and Gulf of California, which are now the subject of international agreement and further deliberation. But it is the case that, to the extent California will get additional water in the next 15 years that it might otherwise not have gotten had all these agreements not come into being, that the Delta could be shorted, and that is something that should be addressed, and presumably it will be in other forums.

I am going to get to the two other major points in my testimony in a moment, one being the impacts of the agreements potentially on the Salton Sea and the problems of the Salton Sea and the issues within the community in Imperial Valley. But I wanted to noted first agreement, I think, with the remarks earlier of Assistant Secretary Raley and link them to the written testimony that I provided here about the amendment that Congressman Hansen introduced into your bill, Congressman Calvert, which you referenced in your opening statement.

I think what both, the Assistant Secretary's remarks and the Congressman's amendment, demonstrate is the real urgency which we all face in trying to resolve these issues, and I will just make a personal comment. I think these issues are more urgent than some of the others in California over which we and others have fought very hard, legislatively and otherwise. I think really focused attention on the part of all the interested parties—Federal, the states, California interests and the environmental communities—should be focused on these issues to try to get them resolved.

Now, what are the big ones? The big ones are the impacts of limiting California's diversions on the Salton Sea. In recent times, we have, within the environmental community—and I should say, there are many environmental stakeholders here, and I don't purport to speak for any but the Environmental Defense—have been engaged in discussions that we hope will lead to solutions protecting most of the environmental resources at issue. And in particular, the concept of generating a large fund with major contributions form the agencies, from the State of California and from the United States that would be used to address the environmental issues has been winning considerable support, and I hope that a lot of attention gets put to try to put that fund together and to figuring out what are fair allocations of responsibility among the disparate interests.

The socioeconomic issues in the Imperial Valley are another story. The IID is an irrigation district and thus elected by its resi-

dents rather than by its landowners. On the other hand, the water rights there are ancient and go back to the landowners themselves. And the tension I think that those two facts creates within the Imperial Valley as to who might benefit from these transfers and where the incentives should run and what kinds of conservation investments should be made I think has complicated the attitudes within that community toward the transfer, and I think has made it particularly complicated to close the deal, so to speak, both on the environmental side and on the distribution of whatever financial payments might be made side as well.

I say here in the written testimony whether Congress or the Federal Administration can provide significant help in sorting out these internal divisions is unclear. Perhaps all that can be done is being done. I don't know if that is true. Commenting a little bit on what Assistant Secretary Raley said earlier, it is true that the seven states have been a major contributor to bringing the ball as far down the field as it already has been brought. There have been a lot of first downs, we are getting near the goal line, but at this point I think it is really incumbent upon the United States and in particular in its dealings with the IID and environmental compliance and with the Salton Sea authority in developing a plan for the Salton Sea to provide leadership in getting us across the goal line. I don't think it will be done just by the states themselves or by the agencies themselves.

To conclude, no one ever said it would be easy to reduce California's use of Colorado River water by 700,000 acre feet, but with the timely establishment of a substantial environmental mitigation and restoration fund and with meaningful community-based reinvestment of an appropriate share of water transfer proceeds, perhaps the California Plan will become a model of sustainable resource management, not only in California but for the Nation as a whole. Thank you.

[The prepared statement of Mr. Graff follows:]

Statement of Thomas J. Graff, Regional Director, Environmental Defense

Congressman Calvert and Members of the Subcommittee on Water and Power:

Thank you for your invitation to testify today on the "Implementation of the California Plan for the Colorado River". A tremendous amount of creative and cooperative work has gone into the preparation and implementation of the California plan for the Colorado River at all levels of government, federal, state and regional. It is no small achievement for a state and its subdivisions apparently to commit to an effective reduction of 600,000–800,000 acre feet per year in its diversions of water from any source, especially one on which it has been dependent in some cases for over a century and in others for sixty years and longer. Yet that is collectively what the state of California, the Coachella Valley Water District (CVWD), the Imperial Irrigation District (IID), the Metropolitan Water District of Southern California (MWD), and the San Diego County Water Authority (SDCWA) have done with respect to California's withdrawals from the Colorado River. Voluntary conservation and transfer. Quantification settlement. Innovative groundwater storage and conjunctive use. All are important and praiseworthy aspects of the California plan.

Should California succeed in implementing its plan, many other interests dependent on the Colorado River will have a significantly higher probability of meeting their needs and desires. Among these interests are the other six Colorado River Basin states. In particular, here within the Lower Basin, Arizona's Central Arizona Project diversions are generally junior to California's 4.4 million acre feet entitlement and Nevada's 300,000 acre feet entitlement may not be sufficient over the long-term to meet burgeoning growth in the greater Las Vegas metropolitan area. Other potential beneficiaries of California's success in implementing its Plan are the Colorado River Basin's Indian tribes, towards whom the United States has solemn

trust responsibilities; the users of the River in Mexico, where the per capita consumptive use of water in the region's cities is much lower than in the United States and where economic development is surging; and at least in the long term the environmental resources of the long neglected Colorado River Delta and Gulf of California, whose values have only recently been acknowledged in international negotiations and forums (even as the Interim Surplus Guidelines may diminish the available potential water supplies available to serve their needs).

In addition to impacting the Delta, implementation of the California plan potentially could also bring about significant losses within California. Of these potential losses, the most significant are the environmental values associated with the Salton Sea and the community's interests in the Imperial Valley. Ironically, both of these resources are already threatened, even without implementation of the conservation and transfer components of the California plan having yet produced any significant effects.

Just as the various levels of government should receive appropriate credit for the promulgation of the California plan, so should they all bear at least partial responsibility for the current problems of the Salton Sea and for economic inequities and hardships within the Imperial Valley community. Unfortunately, however, acknowledgment of these responsibilities has not proceeded with the same urgency as did the promulgation of the California Plan. As a result, implementation of the California plan may yet founder because there is understandable resistance to its potential consequences arising from an environmental community concerned most particularly about its impacts on the incredibly diverse bird life, including the endangered pelican, who even in today's degraded circumstances make use of the Salton Sea's bounty. And it may founder as well because within the Imperial Valley there are many who understandably question the adverse distributional and economic effects that could result from implementation of the conservation and transfer provisions of the California plan, even as some could obtain very large financial benefits from the transfer payments.

External pressures to address and resolve these problems are significant. Most notably, as the Subcommittee chairman is of course aware, his bill, H.R. 3208, designed to move forward California's other great experiment with consensus decision-making, the CALFED process, was recently amended in Committee mark-up by the Committee's chairman, Congressman Hansen of Utah. The Chairman inserted a draconian provision into H.R. 3208, section 301 (e), that would prohibit the Secretary of the Interior from delivering to California any more than 4.4 million acre feet of water in any year after 2016, except when the Colorado River is in a flood avoidance circumstance. If passed into law, this provision effectively requires California to move even faster and more comprehensively towards 4.4 than would otherwise be the result of implementation of the California plan. While the present California plan is often referred to as a 4.4 plan, in its explicit terms it would appear to commit the state only to move substantially in the direction of 4.4, rather than actually to achieve that landmark on a regular basis by the year 2016.

The question thus arises whether the responsible entities at all levels of government have the intention, the will, or the means to address the environmental and the socio-economic aspects of California's present and future diversions of water from the Colorado River.

In answering this question, the jury is still out. In recent months, the four agencies who share most of California's Colorado River rights only have recently begun to struggle seriously with the environmental issues and to engage environmental stakeholders in discussions that could lead to solutions protecting most of the environmental resources at issue. In particular, the concept of generating a large fund, with major contributions from the agencies, from the state, and from the United States, that would be used to address the environmental issues, has won considerable support. With sufficient financial resources and governmental commitments, an environmental solution, such as the one proposed by the Pacific Institute to save the most ecologically significant aspects of the Salton Sea on a sustainable basis, could well allow the California plan to proceed without major adverse environmental consequences. Indeed, if such a solution can be devised that is sustainable over a long period, the net result may well be environmentally positive, in that the current trend line for fish survival in the Salton Sea, absent governmental intervention, is undoubtedly negative under virtually any scenario.

The socio-economic issues in the Imperial Valley are another story. Despite the fact that the Imperial Irrigation District board is an entity elected by the community at large, unlike most agricultural water districts in California whose boards are selected only by landowners, the unemployment rate in Imperial Valley is high and the income disparities great. The income generated from the conservation and transfer arrangements that the IID has negotiated could help address these problems if

the community seizes the opportunity. Many of the past delays in reaching consensus on the California plan, and the more recent delays in developing environmental mitigation and restoration plans, however, can be attributed to divisions within the Imperial Valley community. It no doubt would be difficult for any community to come to terms with a future in which its principal natural resource is slated to be reduced by as much as 25 percent. But even a future in which IID receives substantially less water can be bright, if the community wisely deploys the financial resources that the south coastal urban areas are providing in exchange for the water lost (at worst, it is worth noting, the IID will still receive close to 2.5 million acre feet per year). Whether Congress or the federal Administration can provide significant help in sorting out the internal divisions within the Valley is unclear. Perhaps all that can be done is being done. The United States is, after all, a full partner with IID in the habitat conservation planning that is a prerequisite to any solution to the California plan's environmental problems. And the United States is also a full partner with the Salton Sea Authority in developing a long-term plan for the Salton Sea, a partnership that ironically also has recently involved addressing economic aspects of the Imperial Valley's water situation, including the highly charged issue of land fallowing.

What these partnerships reflect is the interconnectedness of the environmental, economic, and social issues raised by California's commitment to go on a Colorado River "water diet". No one ever said it would be easy to reduce California's use of Colorado River water by 700,000 acre feet. But with the timely establishment of a substantial environmental mitigation and restoration fund and with meaningful community-based reinvestment of an appropriate share of water transfer proceeds, perhaps the California plan can still become a model of sustainable resource management, not only in California, but for the nation as a whole.

Mr. CALVERT. Thank you, Mr. Graff.

Mr. Caan?

STATEMENT OF GEORGE CAAN, EXECUTIVE DIRECTOR, COLORADO RIVER COMMISSION

Mr. CAAN. Thank you, Chairman Calvert. I want to thank you for the invitation to testify today. My name is George Caan, and I am executive director of the Colorado River Commission of Nevada. This is your second hearing on important issues related to the Colorado River. It has been some time since a Committee of the Congress was interested enough in the Colorado River to convene successive hearings such as these. Thank you for the leadership you have shown during your tenure as Chairman of the Water and Power Subcommittee and for holding this hearing in Las Vegas.

For over a decade, the Colorado River Commission of Nevada and the Southern Nevada Water Authority have aggressively pursued a strategy to augment Nevada's minuscule 300,000 acre feet entitlement to Colorado River water. As the fastest growing community in the Nation, we recognize that although our successful water conservation and wastewater reuse programs would only serve to stretch our supplies, additional water resources are critical for our survival.

In Nevada, we have learned that we cannot solve our own problems without being involved in helping to solve those in the other Colorado River Basin states. This is especially true for California which consumes the largest share of the Colorado River. For that reason we have labored for almost a decade with the other Basin states through countless meetings to achieve consensus among the seven Basin states around solutions which are innovative and bold and still preserve the underlying fabric of the Law of the River.

I want to point out at the outset that this has been a state-driven process. We have appreciated the support and encouragement of

the Interior Department, the solutions which have evolved all had their genesis within the seven-state process and not in Washington.

Possibly the most difficult issue we have faced is the need for California to wean itself away from overuse of the Colorado and live within its 4.4 million acre foot entitlement. As you have been shown, this will require nearly 800,000 acre feet of reduced deliveries. The seven states developed a proposal which allows California an assured water supply for the next 15 years, during which time it must make substantial progress with periodic milestones to reduce its use of Colorado River water. This assured supply comes in the form of what we call Interim Surplus Criteria, which in layman's terms means that all the states agree to allow the Secretary of the Interior, as water master for the Lower Basin, to declare each year for the next 15 years, that there is enough surplus water in the reservoirs to release an extra amount above the Lower Basin's entitlement of 7.5 million acre feet. The surplus amount that is to be released each year depends upon the elevation of Lake Mead.

This remarkable plan was signed by the Secretary of Interior last January. For the first time, it schedules the delivery of this additional water based on type of uses, with municipal and industrial needs first, then agriculture, rather than on the old western water law doctrine of prior appropriation.

Nevada benefits significantly from these surplus deliveries. Because we are an M&I delivery, the criteria will all but ensure an adequate water supply for all of southern Nevada's needs through 2016. Nevada shares with California these interim supplies, and therefore we are vitally concerned that California meet its milestone targets to ramp down usage of Colorado River water. If California fails to do so, we will lose our assured water supply rights along with them. In other words, Nevada's water supply future is inextricably tied to what occurs in California.

For that reason, Nevada has a vested interest in the success of California internal efforts to conserve water such as the IID to San Diego transfer as well as to develop additional sources of supply for southern California. We understand the relationship between the Salton Sea issue and the IID-San Diego transfer, and we are supportive of Representative Hunter's bill, H.R. 2764, The Colorado River Quantification Settlement Act. While there are certainly important details of the bill which need to be resolved, we do support the overall premise of the bill to provide Federal funding to assist with the Salton Sea environmental studies and other projects needed to ensure the success of that water transfer.

To the same end, we support your efforts, Representative Calvert, along with those of Senator Feinstein to pass a CALFED authorization bill providing for funding for water development projects throughout California. These projects will help California reduce its over dependence upon the Colorado.

During the recent markup of the CALFED bill, the Chairman of the Resources Committee, Representative Hansen of Utah, attached an amendment which statutorily requires that after the 15-year period covered by the interim surplus criteria, the Secretary of the Interior must default to a conservative one-size-fits-all operating plan for the Colorado River each year thereafter. The Hansen

amendment, while well meaning, is a very dangerous precedent. The State of Nevada strongly believes that the annual operating plan for the Colorado River should be developed in an open process among the seven Basin states working cooperatively with the Secretary of Interior and other interested parties. This is a tried and true process which has resulted in significant and positive operating changes to meet future needs while doing so in harmony with the Law of the River.

With only 300,000 acre feet of Colorado River entitlement, Nevada has learned the importance of working with our sister states to find river management solutions. The Arizona Groundwater Banking Plan and the interim surplus criteria were achieved by good faith, state-based negotiations. By locking into Federal law a single one-size-fits-all operating plan, the Hansen amendment would put an end to these creative state-based solutions. The amendment returns the Colorado River wars to the Halls of Congress. This is most unfortunate. Nevada strongly believes Congress should let the seven Basin states determine how to operate the Colorado River for the benefit of all.

In conclusion, Nevada's water future looks far more secure today than it did 10 years ago. This is the result of some significant achievements brought about by the seven Basin states working together along with a supportive Interior Department. There is more to do. California has just begun its difficult task of conserving and finding enough water to meet its needs. We face significant and important environmental challenges such as the Endangered Fish Recovery Program, finding a practical and affordable Salton Sea solution and addressing the international consequences associated with the Mexican Delta. I am confident in our ability to find more innovative solutions, working together, and being connected. Again, thank you for the opportunity to testify.

[The prepared statement of Mr. Caan follows:]

Statement of George Caan, Executive Director, Colorado River Commission of Nevada

Introduction

Chairman Calvert, I thank you for the invitation to testify today. My name is George Caan and I am Executive Director of the Colorado River Commission of Nevada. This is your second hearing on important issues relating to the Colorado River. It has been some time since a Committee of the Congress was interested enough in the Colorado River to convene successive hearings such as these. Thank you for the leadership you have shown during your tenure as Chairman of the Water and Power Subcommittee and for holding this hearing in Las Vegas.

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In Nevada we have learned that we cannot solve our own problems without being involved in helping to solve those in the other Colorado River basin states. This is especially true for California which consumes the largest share of the Colorado River. For that reason we have labored for almost a decade with the other basin states through countless meetings to achieve consensus among the seven basin states around solutions which are innovative and bold and still preserve the underlying fabric of the Law of the River.

I want to point out at the outset that this has been a state driven process. We have appreciated the support and encouragement of the Interior Department, the

solutions which have evolved all had their genesis within the seven state process and not in Washington.

Interim Surplus Criteria and the California 4.4 Plan

Possibly the most difficult issue we have faced is the need for California to ween itself away from overuse of the Colorado and live within its 4.4 million acre foot entitlement. This will require nearly 800,000 acre feet reduced deliveries from the amount California has been regularly using. The seven states developed a proposal which allows California an assured water supply for the next fifteen years during which time it must make substantial progress with periodic milestones to reduce its use of Colorado River water. This assured supply comes in the form of what we call Interim Surplus Criteria, which in layman's terms means that all the states agree to allow the Secretary of the Interior as water master for the lower basin, to declare each year for the next fifteen years, that there is enough surplus water in the reservoirs to release an extra amount above the lower basin's entitlement of 7.5 million acre feet. The surplus amount that is to be released each year depends upon the elevation of Lake Mead.

This remarkable plan was signed by the Secretary of Interior last January and for the first time schedules the delivery of this additional water based upon type of uses, with Municipal and Industrial needs first, then agriculture, rather than on the old western water law doctrine of prior appropriation or put another way, first in time is first in right.

Nevada benefits significantly from these surplus deliveries. Because we are an M&I delivery, the Interim Surplus Criteria will all but ensure an adequate water supply for all of southern Nevada's needs through 2016. Nevada shares with California these interim surplus supplies and therefore are vitally concerned that California meet its milestone targets to ramp down usage of Colorado River water. If California fails to do so, we will lose our assured water supply rights along with them. In other words, Nevada's water supply future is inextricably tied to what occurs in California.

For that reason, Nevada has a vested interest in the success of California internal efforts to conserve water such as the IID to San Diego transfer as well as to develop additional sources of supply for southern California. We understand the relationship between the Salton Sea issue and the IID–San Diego transfer and we are supportive of Rep. Duncan Hunter's bill, H.R. 2764, The Colorado River Quantification Settlement Facilitation Act. While there are certainly important details of the bill which need to be resolved, we support the overall premise of the bill to provide federal funding to assist with the Salton Sea environmental studies and other projects needed to ensure the success of that water transfer.

To the same end we support your efforts Rep. Calvert, along with those of Senator Dianne Feinstein to pass a CALFED authorization bill providing for funding for water development projects throughout California. These projects will help California reduce its over dependence upon the Colorado. Nevada is not going to presume to tell Californians which CALFED water projects to build or not to build, that is up to you to fight that out amongst yourself.

Hansen Amendment

During the recent markup of the CALFED bill, the Chairman of the Resources Committee, Representative Hansen of Utah attached an amendment which statutorily requires that after the fifteen year period covered by the interim surplus criteria, the Secretary of the Interior must default to a conservative "70–R" operating plan for the Colorado River each year thereafter. The Hansen amendment, while well meaning, is a very dangerous precedent. The State of Nevada strongly believes that the annual operating plan for the Colorado River should be developed in an open process among the seven basin states working cooperatively with the Secretary and other interested parties. This is a tried and true process which has resulted in significant and positive operating changes to meet future needs while doing so in harmony with the Law of the River.

With only 300,000 acre feet of Colorado River entitlement, Nevada has learned the importance of working with our sister states to find river management solutions. The Arizona groundwater banking plan and the interim surplus criteria were achieved by good faith, state based negotiations. By locking into federal law a single, one size fits all operating plan that maximizes storage in basin reservoirs, the Hansen amendment would put an end to these creative state based solutions.

The Hansen amendment returns the Colorado River wars to the Halls of Congress. The other basin states, especially California have necessarily felt the need to respond to the Hansen amendment with legislative amendments of their own. This

is most unfortunate. Nevada strongly believes Congress should let the Seven Basin states determine how to operate the Colorado River for the benefit of all.

Conclusion

In conclusion, Nevada's water future looks far more secure today than it did ten years ago. This is the result of some significant achievements brought about by the seven basin states working together along with a supportive Interior Department. There is more to do. California has just begun its difficult task of conserving and finding enough water to meet its needs. We face significant and important environmental challenges such as the endangered fishes recovery program, finding a practical and affordable Salton Sea solution and addressing the international consequences associated with the Mexican Delta. I am confident in our ability to find more innovative solutions, working together, connected. Thank you again for the opportunity to testify.

Mr. CALVERT. Thank you for your testimony.

Mr. Zimmerman?

STATEMENT OF GERALD R. ZIMMERMAN, EXECUTIVE DIRECTOR, COLORADO RIVER BOARD OF CALIFORNIA

Mr. ZIMMERMAN. Thank you, Mr. Chairman, members of the Committee. I am Gerry Zimmerman, the executive director of the Colorado River Board of California. I guess either fortunately or unfortunately being last on the panel, everybody has said what you wanted to say. But what I want to do is highlight a few of the comments that have been made by previous presenters and to focus on the importance of the Colorado River to California. The water and power resources provided by the Colorado River are vital to California's economy. Seven counties in southern California comprise 17 million people. About half of the State's population receive both water and power from the Colorado River, and recently the up to 5.2 million acre feet of water that has been diverted from the Colorado River represents about 65 percent of the water used within southern California. That water is used to irrigate about 900,000 acres of irrigated cropland, it produces 3.5 billion kilowatt hours of hydroelectric energy, and it supports vital fish and wildlife and recreational resources enjoyed by Californians as well as people from other states and other countries.

The Colorado River supports a service area economy of southern California in excess of $400 billion. The entire State has benefited both directly, indirectly by California's ability under the existing Law of the River to use more than its 4.4 million acre-foot basic apportionment. In 1991 and 1992, as California faced its fifth and sixth consecutive years of drought, the entities within southern California were able to divert all of the water that they had requested from the Colorado River. Had they not been able to do that there would have been more severe rationing within southern California.

In the future, if the Metropolitan Water District of southern California is unable to maintain a full Colorado River aqueduct, more pressure will be placed on the State water project and related facilities. That will impact the Central Valley and the San Francisco and San Jose areas. This year, without a surplus on the Colorado River, as has been mentioned, California's ability to use water within southern California would have been reduced by 700,000 acre feet of water. That could have economic impacts on all of California, not just southern California.

If we look at the State water project and the water that is provided by that project this year, the State water project contractors were limited to 39 percent of their State water project allocation. If the drought continues next year, you are looking at a possibility of a 20 percent allocation from the State water project. I think this emphasizes that the Colorado River and maintaining a full Colorado River aqueduct is very important to southern California and California as a whole.

If we look at the Colorado River Plan, as Maureen has generally explained, that plan was developed by the Colorado River Board of California in 1997. A more comprehensive draft then was released to the Colorado River Basin states in May of 2000. We are holding finalizing that plan until after the Quantification Settlement Agreement is signed and after all the environmental compliance with the projects related to the plan is completed. We are holding off doing that so that we can incorporate all of that date information into the final plan.

I would just say that we are making significant progress in implementation of the plan. As has been indicated, the State of California has provided $235 million to assist in implementing the plan—$200 million for lining the all-American Coachella canals and $35 million for groundwater conjunctive use project, alongside the Metropolitan's Colorado River aqueduct. Funding agreements have been executed between Metropolitan Water District and the State of California for the Coachella lining canal, or lining project, as well as for the Hayfield project alongside the Colorado River aqueduct.

As has been indicated by the state representatives, each of the state representatives support implementation of the Colorado River Water Use Plan, as does the Department of Interior.

At this time, there are three critical items that I see have to be solved. The first is execution of the Quantification Settlement Agreement by December 31, 2002. We also have to have continued operation of the Colorado River system reservoirs under the Interim Surplus Criteria. And, third, we have to be able to implement the elements of California's Colorado River Water Use Plan in accordance to the schedule, as contained in that plan.

The challenge facing implementation of the plan, as has been raised by others today, is the Salton Sea and the State and Federal ESA issues. Maureen has indicated the temporal impact that the water transfers have on the Salton Sea, so I won't go into those. What I would also highlight is the relationship between the Quantification Settlement Agreement and the Interim Surplus Criteria. The Record of Decision on the Interim Surplus Criteria contains milestones that the State of California must meet in order to keep the Interim Surplus Criteria in place. The first milestone is December 31, 2002, execution of the Quantification Settlement Agreement.

Mr. Chairman, rather than take any more time, what I would like to do is conclude by saying that the Colorado River plays a very important role in maintaining a stable water supply picture, not only for southern California but for the State as a whole. Implementation of Colorado River's Water Use Plan and the associated Quantification Settlement Agreement and the core water

transfer are a priority within California and a prerequisite for southern California to be able to meet its water supply needs. If a Quantification Settlement Agreement is not executed by December 31, 2002, the Interim Surplus Criteria face suspension. That suspension would result in about 700,000 acre feet of water to the coastal plain of southern California being lost as early as 2003. Such a large shortage would result in severe economic impacts that would be felt throughout California and the Southwest.

Mr. Chairman, thank you for the opportunity to testify before this Committee today, and I know that working together we will be able to make a difference.

[The prepared statement of Mr. Zimmerman follows:]

Statement of Gerald R. Zimmerman, Executive Director, Colorado River Board of California

Mr. Chairman and Members of the Committee, thank you for this opportunity to appear before you today. I will discuss the importance of the Colorado River to California, as well as, the progress being made and the challenges being faced by Californians in reducing their water supply needs from the Colorado River to fit within California's annual apportionment of Colorado River water.

The Colorado River Board

The Colorado River Board of California was established in 1937 by State statute to protect California's rights and interest in the resources provided by the Colorado River and to represent California in discussions and negotiations regarding the Colorado River and its management. The 10 members that sit on the Colorado River Board are appointed by the Governor and include the directors of the Departments of Water Resources and Fish and Game. The Chairman of the Colorado River Board is California's Colorado River Commissioner.

Importance of the Colorado River

California's rights and interests in the water and power resources of the Colorado River System are vital to the State's economy. Seven counties in Southern California, with a population of over 17 million, more than half of the state's population, receive water and hydroelectric energy from the Colorado River. Recently, up to 5.2 million acre-feet (maf) of Colorado River water per year have been consumed by California's municipal, industrial, and agricultural interests in a year. This represents about 65 percent of the total water used in Southern California. The Colorado River provides a water supply for about 900,000 acres of irrigated agriculture and is a supplemental or sole source of water for over 17 million people in Southern California. In addition, it provides California residents about 3.5 billion kilowatt-hours of hydroelectric energy a year, as well as, supports vital fish, wildlife and recreational resources enjoyed by Californians and residents from other states and countries. Water received from the Colorado River supports a service area economy in Southern California in excess of $400 billion.

Much of the area within California served by the Colorado River has no other significant water supply. The river supports agricultural water users in the southeastern portion of the State—providing virtually all of the water used by Imperial Irrigation District (IID), Palo Verde Irrigation District (PVID), and the Yuma Project, as well as most of the water used by Coachella Valley Water District (CVWD). The River supports urban water users on the Southern California coastal plain, an area that includes parts of six counties and half of the State's population. Approximately 60 percent of the coastal plain's water supplies have been imported from elsewhere during the past 10 years—from the Central Valley by the California State Water Project, from the Mono Basin–Owens River area by the City of Los Angeles Aqueducts, and from the Colorado River by Metropolitan Water District of Southern California's (MWD's) Colorado River Aqueduct. Of the imported supply water supply to the coastal plain during the past 10 years, over 50 percent of the total has come from the Colorado River.

California's basic annual mainstream apportionment of Colorado River water is 4.4 million acre-feet (maf), whereas its use of Colorado River water has recently ranged from 4.5 to 5.2 maf per year. The entire State has benefitted both directly and indirectly from California's ability under the existing "Law of the River", to obtain water above its basic mainstream apportionment. In 1991 and 1992, as California faced its fifth and sixth consecutive years of severe drought, while other

water sources were curtailed, entities in California were able to divert all of the water that they requested or could transport from the Colorado River to meet the needs within their service areas. Had MWD's water supply from the Colorado River been limited, significantly higher levels of mandatory water rationing would have been required in portions of Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura Counties served by MWD. Such rationing would have resulted in significant economic impacts to the region. In the future, if MWD's Colorado River water supply were to be significantly reduced, additional pressure would be placed on the State Water Project and related water systems to meet the water supply demands within MWD's service area. This could result in significant impacts in the Central Valley of California and the San Francisco and San Jose areas.

In the past, California was able to consumptively use water above its basic annual apportionment because the water use by both Arizona and Nevada were below their "basic" annual apportionments. Those states now use all, or nearly all, of their basic apportionments, effectively ending California's ability to use water above its basic apportionment of 4.4 maf, absent a surplus condition being declared by the Secretary of the Interior. This year, without a surplus condition being declared by the Secretary of the Interior, California's use of Colorado River water could have been limited to its 4.4 maf basic apportionment, some 700,000 acre-feet less than its current use of Colorado River water. Because agricultural districts in California hold the senior water rights, almost all of this reduction would have fallen on MWD and urban Southern California. A reduction in water supply of this magnitude could have huge consequences, not only on 17 million people residing on the coastal plain of Southern California, but on other regions of California as well.

This year, because of the drought in California and the west, the State Water Contractors including the Metropolitan Water District of Southern California have received only 39 percent of their allocation from the State Water Project. With the prolonged drought, their allocation for 2002 is currently estimated to be 20 percent. With these reductions it is critical that MWD maintain a full Colorado River Aqueduct to continue to meet its water supply demands on the coastal plain.

California's Colorado River Water Use Plan

Recognizing that urban Southern California could be without an assured water supply, the former Secretary of the Department of the Interior, Bruce Babbitt, and representatives of the other Colorado River Basin states in 1997 called upon California to develop a plan that addresses how Southern California intends to continue to meet its water supply needs when its use of Colorado River water is limited to its "basic" apportionment. In return for development and implementation of such a plan, the Secretary and representatives from the other Colorado River Basin states indicated their willingness to consider the adoption of surplus criteria that would assist California in meeting its Colorado River water supply needs for an interim period while California implements elements of its plan. With California's plan and more optimal surplus criteria for operating the Colorado River reservoir system, the probability of more than 7.5 maf of water being available annually for use by California and the other Lower Basin states is enhanced.

The first draft of what is now being called California's Colorado River Water Use Plan (Plan) was released by the Colorado River Board in December of 1997. A revised, more comprehensive draft was released by the Board on May 11, 2000. The draft Plan calls for a number of programs to be implemented within California and in cooperation with the other Basin states that allow the water supply needs of Southern California to continue to be met from within its annual apportionment of Colorado River water.

The overall purpose of the Plan is to provide California's Colorado River water users with a framework by which programs, projects, and other activities will be coordinated and cooperatively implemented, thus allowing California to most effectively satisfy its annual water supply needs from within its annual apportionment of Colorado River water. This framework specifies how California will transition from its current use of water and live within its basic apportionment of Colorado River water as conditions on the River so dictate.

The components of the Plan are broad in scope and deal with both water quantity and quality. It is intended to help bring certainty to all California Colorado River water right holders as to the reliability of their Colorado River supply so that they can plan, finance, and implement other required measures in a timely manner to fully meet their water supply and management needs. It is founded on interagency cooperation, and embraces regional approaches and consensus-based processes. It is intended to be fully consistent with the existing "Law of the River" and to foster greater levels of interstate cooperation and coordination in addressing Colorado River matters of mutual interest.

The Plan encompasses:

- further quantification of California's rights and use of Colorado River water to facilitate the optimum use of California's Colorado River resources,
- cooperative core water supply programs and voluntary transfers,
- increased efficiencies in water conveyance and use,
- water storage and conjunctive use programs to increase normal and dry year water supplies,
- water exchanges and transfers,
- administrative actions necessary for effective use and management of water supplies,
- improved reservoir management and operations,
- drought and surplus water management plans,
- coordinated project operations for increased water supply yield,
- groundwater management,
- Colorado River salinity control and watershed protection, and
- addressing environmental impacts

The Plan will remain in draft form pending completion of the environmental reviews and the subsequent execution of agreements associated with the Plan, such as the proposed Quantification Settlement Agreement (QSA).

Time–Sensitive Actions

Critical to successful implementation of California's Colorado River Water Use Plan and for California to continue to meet its Colorado River water supply needs from within it annual apportionment of Colorado River water are: 1) execution of the proposed QSA; 2) continued operation of the Colorado River System reservoirs under the Interim Surplus Guidelines; and 3) implementation of the proposed core water transfers.

Water districts in California holding Colorado River water contracts have formulated the QSA to implement vital components of California's Colorado River Water Use Plan. The QSA further quantifies the districts' water entitlements and provides for the implementation of certain core water transfers, such as the IID/San Diego County Water Authority's transfer of up to 200,000 acre-feet of water per year, as well as facilitates other transfers, such as the proposed PVID/MWD's Land Management, Crop Rotation, and Water Supply Program. Although progress is being achieved to complete the required environmental documentation for the QSA, the process cannot be completed until issues involving the Salton Sea are resolved. When the Key Terms for Quantification Settlement were negotiated by the water districts, it was assumed that the process directed by the Salton Sea Reclamation Act of 1998 would have been completed and Congress would have made a determination as to the Sea's future. This has not happened and if it remains unresolved, it could bring about the demise of the QSA and the core water transfers that would bring needed water to residents on the coastal plain of Southern California.

In an effort to address this Salton Sea dilemma, discussions among representatives from the State of California, the affected California agencies, the Bureau of Reclamation, the U.S. Fish and Wildlife Service, and the environmental community are occurring in an attempt to find a solution. Despite the efforts of the stakeholders, an administrative solution has not yet been identified and the solution may require federal legislation. However, through these discussions, it has become apparent by all parties that the proposed water transfers have a temporal effect of one to nine years on an already deteriorating Sea and that the Sea, in a period of seven to 22 years, will be incapable of supporting a fishery without reclamation, regardless of whether the transfers occur or not. It is also recognized that execution of the QSA is critical for the successful implementation of California's Colorado River Water Use Plan.

The State of California has placed a high priority on implementation of California's Colorado River Water Use Plan and the associated QSA. The State Legislature has appropriated $235 million to assist with implementation of the Plan; $200 million for the concrete lining of portions of the All–American and Coachella Canals and $35 million for ground water storage and retrieval projects near MWD's Colorado River Aqueduct. The Final EIS/EIRs for both the All–American and Coachella Canal lining projects have been completed and the Funding Agreement between the State of California and MWD for the Coachella Canal has been executed. The Funding Agreement between the State of California and MWD for the Hayfield Ground Water Storage and Retrieval Project has also been executed.

To address outstanding issues at the State level that may impede successful implementation of California's Colorado River Water Use Plan and the associated QSA, a broad-based group of stakeholders has been formed. This Group, chaired by Ms. Mary Nichols, Secretary for California's Resources Agency, is addressing issues

related to the Salton Sea, the California Endangered Species Act, and the Fully Protected Species provisions in the California Fish and Game Code. State legislative hearing have been held on November 7, 2001and December 5, 2001, to discuss solutions to these issues. It is anticipated that State legislation addressing these issues will be introduced in January 2002 with an urgency provision to permit the legislation to become effective in 2002.

Representatives of the seven Colorado River Basin states have supported implementation of California's Colorado River Water Use Plan through development of the Interim Surplus Guidelines for operation of the Colorado River System reservoirs. These Guidelines were a product of negotiations among representatives of the seven Colorado River Basin states and were submitted to the Bureau of Reclamation for its consideration. They provide California with the means, over 15 a year period, when coupled with other elements of California's Colorado River Water Use Plan, to transition from its present use of Colorado River water to being able to meet its water supply needs from within its basic apportionment of 4.4 maf. They also provide the other Basin states with certain protections and assurances that California will perform by establishing a series of milestones. The first such milestone occurs on December 31, 2002. If the QSA is not executed by that date, the Interim Surplus Guidelines face suspension and very conservative reservoir operating criteria, in terms of delivering surplus water to California and the other Lower Basin states, will take effect. Under such criteria and with the low runoff conditions in the Colorado River Basin the past two years, the probability that surplus water will be available for use in California in 2003 is highly improbable.

Conclusions

The Colorado River plays a very important role in maintaining a stable water supply picture for not only Southern California, but for the State as a whole. Implementation of California's Colorado River Water Use Plan and the associated QSA and core water transfers are a priority within California and a prerequisite to meeting Southern California's water supply needs. If the QSA is not executed by December 31, 2002, the Interim Surplus Guidelines face suspension. That suspension would result in a loss of about 700,000 acre-feet of water to the coastal plain of Southern California as soon as 2003. Such a large water shortage could result in severe economic impacts that would be felt throughout California and the southwest.

Thank-you for providing me the opportunity to testify before this Subcommittee. Working together, we can make a difference.

Mr. CALVERT. Appreciate your testimony, Mr. Zimmerman.

I want to apologize to Ms. Napolitano and Ms. Bono. I understand they had opening statements, and so at this time we would recognize Ms. Napolitano for her opening statement and then Mrs. Bono, and then we will have some questions.

Ms. Napolitano.

STATEMENT OF HON. GRACE NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. NAPOLITANO. Thank you, Mr. Chair, and I will make mine very brief. Coming from southern California, you understand the need for us to be forever vigilant, which southern California itself has worked tremendously on meeting a lot of the challenges, and you talk about municipal users and some of my water companies. And so to those that would continue to tell us in California that we are not living up to our agreement to try to conserve, to try reduce the usage, the fact that we have some of the best methodology that has been developed in southern California for recycled water and other conservation issues, I would beg them to consider that we cannot stop the flow of people coming to live in southern California. Because it has been suggested at one time or another by some former colleagues in the State that we should stop the building and the attractiveness to people from other states. As you all

know, we do have that, unfortunately, or fortunately, because they have been a boon to our economy.

I would say, though, that while California continues on the road to try to meet those obligations, that we get all the assistance we can so that we are able to meet the 2016 four by four plan. Considering all the other things that we have, and one of the things that I certainly want to pose a question to the Bureau of Reclamation and Department of Interior is if we are not able to meet the deadline, December 31 of next year, for the QSA, can we postpone or, if the attempt has been made to meet that, would there be some assurance that we won't be penalized?

Certainly, California cannot afford the immediate reduction by that amount of water, and understanding that our economy reaches out to the neighboring states so that if we suffer so do the rest of the other states around us. And I certainly have those questions in mind, would certainly love to hear what some of the answers would be. Being fair, being, yes, OK, we are attempting to reduce it. I know my munis have. And many others, especially in the San Diego area, I know they have. They have gone through tremendous conservation and other kind of save the water, if you will, programs. So I look forward to hearing what some of the answers can be. Thank you, Mr. Chair.

Mr. CALVERT. Thank you.

Mrs. Bono.

STATEMENT OF HON. MARY BONO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. BONO. Thank you, Mr. Chairman. I, first of all, want to thank you for your leadership on these issues and being such a great friend to the Salton Sea. I am happy to submit my statement for the record, if that is all right with you, and move ahead to the questions when you are ready.

[The prepared statement of Ms. Bono follows:]

Statement of The Honorable Mary Bono, a Representative in Congress from the State of California

Thank you for holding this important hearing on the implementation of the California plan for the Colorado River.

All of us agree that California must take meaningful steps towards reducing its usage on Colorado River water. The Quantification Settlement Agreement is the key component to do just this. A combination of conservation efforts and water transfers will go a long way towards meeting this mandate.

However, as we go about this process, I believe we cannot overlook the environmental impact certain aspects of the QSA will have on the Salton Sea. Too often, California's fractious history of water politics has forsaken long term stability for short term gains. One need only look to Owen's Valley to see how the lack of planning can lead to costly financial and health consequences which we are struggling with today. Therefore, while I am well aware of the ramifications of NOT implementing the QSA, I also believe there are unintended impacts from implementing this agreement without considering some mitigation measures.

One possible casualty in the full implementation of the QSA is the Salton Sea. Rest assured that my intentions in bringing this to the committee's attention do not have as much to do with maintaining the Sea's current level or formation, but rather is focused on securing the overall health and quality of life of the human population in the surrounding area of the Coachella and Imperial Valleys.

This summer, the stench from the Salton Sea reached out about a hundred miles. I have not been assured that the impacts of the QSA, which will have a dramatic impact on the Sea, will not cause considerable harm to the air quality in this region.

While I support and understand the needs of urban communities in Southern California to receive water, I cannot overlook the needs of the constituents of the Coachella Valley who must live in these conditions and whose livelihoods depend on a tourist industry so vital to our community. I cannot imagine anyone who would want to live or vacation in an area which is subject to air pollution of the magnitude we suffered this past summer. Therefore, my concerns extend far beyond the harm water transfers may have on just the eco-system.

I am very appreciative of a general consensus to authorize $60 million of federal funding for the Salton Sea. These Congressional monies will help address a variety of environmental needs. Still, without confronting the dilemma of the Sea losing a significant amount of water, I believe we have not dealt with the most crucial issue at hand. It is unwise to delay the resolution of this problem for a later date when we have the responsibility to address it now.

Rest assured that I believe we can move ahead with water transfers and successfully restore the Salton Sea. There are several proposals out there worthy of our consideration and it is my hope that we can take the time to actively review and debate them.

Again, Mr. Chairman, thank you for holding this hearing and for allowing me to attend. I look forward to working with you on this important issue.

Mr. CALVERT. You are a very wise woman. Thank you.

I want to thank all the witnesses for your excellent testimony, and I guess if there is any word that would come out of all of this is the word, "urgency," because we are bumping up against a deadline 1 year from today on the Quantification Settlement Agreement. And, obviously, we have heard of dire consequences if in fact we are not able to ratify this agreement by December of 2002. And so since we have the gentleman who will probably dole out those dire consequences, I thought you might want to comment on that, Secretary Raley. How important is it that we finish this agreement, and what are the consequences?

Mr. RALEY. Mr. Chairman, this matter of the highest importance to the Secretary. The Secretary is acutely aware of her responsibilities as the water master in the lower river. The Secretary will enforce the decree in Arizona v. California, and the Secretary will stay on the course for the California Plan as put forth in the plan, the Interim Surplus Criteria and the implementation agreement. Should that outcome not come to pass, the Secretary will have to use all means at her disposal to ensure that she is in compliance with the Law of the River.

Mr. CALVERT. That is a pretty direct answer. It seems that from the testimony, obviously, one issue that certainly Mrs. Bono and I and others have been living with for some number of years is the Salton Sea, and it is a incredibly complex problem, and how we are going to resolve that is still open. And that is the problem. We have 1 year, and we had some difficulties working with the Department of Interior coming up with a preferred solution, as you are aware, and that was put off for some time. And we are really not quite there yet. Do you have any comment about that, Mr. Raley?

Mr. RALEY. Mr. Chairman, the alternatives will be out in draft form by the Bureau of Reclamation shortly, and the Bureau of Reclamation is also going through a public process, including an intensive public process in the Imperial Valley. And we will be on track to meet the requirements of the act regarding the Salton Sea.

Mr. CALVERT. Now, when you mention options, are you going to have a preferred option? I mean when you present those various options, are you going to present one that you prefer over the others?

Mr. RALEY. Not having studied the report nor consulted with the Secretary on this—and I want everyone to understand she takes a personal interest in this matter, in all matters on the Colorado River, so we talk about it frequently—I cannot commit to a specific answer. However, I will be blunt with you, Mr. Chairman, and members of the Committee, as I will always try to be, and suggest that it is very likely that what the Department will do is to transfer that report with as full of discussion of the alternatives as possible to Congress and yield to the greater wisdom of the Congress, given that Congress is the one that passes the budget, and the House in particular, as to which one it chooses to select. But I could surprise you.

Mr. CALVERT. You are going to punt it back over to us.

Mr. RALEY. Yes, sir. Well, if I may, Mr. Chairman?

Mr. CALVERT. Yes.

Mr. RALEY. I meant what I said very seriously. In terms of we all know that whatever the solution to the Salton Sea is, and there will be a solution, that it is going to ultimately be driven by funds. And we recognize the role of the House of Representatives, and Congress in particular and Congress in general, in terms of passing the budget.

Mr. CALVERT. Well, it is funds and, as you are aware, water. We have a salinity issue in the sea, and make-up water is the terminology that has been used by some. And whether or not that has been official use of water, whether we can do that, that is another subject. But we have to resolve that in 1 year, and so in order for us to move on with these water transfers, as I recognize and I think everyone on this recognizes, is an ongoing reality in California, not just in the Imperial County, and we will certainly probably have transfers in other parts of the State of California as part of the water solution—and I emphasize part of the water solution. I know recognize Mrs. Napolitano.

Ms. NAPOLITANO. How much time did you say we have?

Mr. CALVERT. Five minutes for—well, we will just go back and forth.

Ms. NAPOLITANO. Per person? I have a lot of questions, Mr. Chairman. Thank you for the time. You are saying that the Secretary has indicated she is going to follow the letter of the Law of the River if the QSA is not met by next December, correct?

Mr. RALEY. The Secretary will stay the course in the present agreements if those are not—

Ms. NAPOLITANO. That is following the letter of the law.

Mr. RALEY. And if the outcome, the far preferable outcome that is envisioned by that collection of agreements can't be achieved, she will follow the Law of the River.

Ms. NAPOLITANO. OK. Now, what would you think Congress must do to carry out the QSA and help California meet the goal? If we are saying, "California, without exception, you must meet it," but how can you help us meet it?

Mr. RALEY. Well, first of all, in terms of how the Department can help, I can tell you that at the highest levels in the Department, starting with the Secretary and within her personal staff, we are treating the deadlines with respect to the California Plan and the Quantification Settlement Agreement as being now. We have asked

the agencies, primarily the Bureau of Reclamation and the Fish and Wildlife Service, to consider the deadlines as being now, and they have done so. In fact, tonight I will be meeting with other members of the Federal family to make sure that we do our best to have one voice within the Federal agencies, and I have told the nominee for Assistant Secretary for Fish and Wildlife and Parks from your great State of California that if he is confirmed by the Senate, I have asked for some of his time 5 minutes after he is sworn in to talk about this very important issue. So we are committed to finding a way through the Federal side of the equation.

Now, in my remarks, you may have noticed a distinct absence of detail with respect to how California implements certain aspects of the overall plan, notably how the water rights transfers are structured, how the water actually ends up to the intended beneficiaries. Our view of that is that to the maximum extent possible we would like for the California parties to figure out that between themselves. And we do that because they are the ones with the greatest incentive to make this work.

In response to your question of what Congress can do, we have said publicly that we do not want to see any option off the table. From an administrative standpoint, we are working hard on a Section 10 solution to the issues associated with the Salton Sea. We are prepared to consider a Section 7 solution for purposes of addressing Federal ESA laws—Federal ESA needs, understanding that that is not preferred, because it doesn't provide the cleanest way for California to meet the requirements of its California Endangered Species Act and Fully Protected Species Act. It may be that Congress will have to act with respect to the implementation of the California Plan and its compliance with the Endangered Species Act. We do not know yet.

Ms. NAPOLITANO. Then there is another question that this may not address, and that is the issue of salinity on the Colorado, where most of the lands, I would say a large portion, are Federal lands adding to the salinity of the river. What does the Department of Interior intend to do to help reduce that so the costs then borne by the agencies to clean the water could then be used to address the issue of cutting down on the water usage?

Mr. RALEY. Congresswoman, I just recently, as of this morning on the plane, reviewed some documents on that, and the point that they made was that the Bureau of Land Management within the Department of the Interior plays a key role, and I do not know if the Assistant Secretary has been confirmed. She had not when I left the office last week. That is an issue that I intend to raise with her and with the BLM Director as soon as they are in place and have found their offices, because I well understand the importance of the salinity issue to the entire Basin.

Right now, my understanding is is that the Upper Basin is delivering water that is far in excess of the requirements, if you will, of the structure of the salinity compliance on the Colorado River, but that the economic consequences of treating at the using end as opposed to avoiding salinity contributions at the contributing end, it is perhaps a far better investment to do that, and I can promise you that we will be working with you and other stakeholders in the Lower Basin to figure out how to do that most effectively.

Ms. NAPOLITANO. And I will take that as a very good yes to putting this as a priority.

Mr. RALEY. Yes, absolutely.

Ms. NAPOLITANO. Thank you. The other issue would be on Moab and the danger of having a contaminated uranium tailings mine effluent hitting the Colorado River and its effect on the water users, and that would include all the Basin states. And how are the agencies going to address it by allowing us to move the pile, which I think we are having a hearing coming up pretty soon on that. And I think the State has come up with some findings which are generally no findings. It is just a rehash of apparently what has been studied before. And I think it is going to dump it back on the lap of Congress. To me, if anything were to happen, then forget us having portable water or at least adding cost to be able to clean that water from contaminants. Is anything being done or are you adding that to your mix?

Mr. RALEY. Congresswoman, I will not pretend. Since I have come on board, I have been so fully consumed by Clamoth, Bay Delta, the California Plan, the Mexican Delta and some other states, I am aware of that issue, but I do not know what the current state of play is. I will find out and we will get back to you.

Ms. NAPOLITANO. I appreciate it. Well, there is a—I can give you a little bit of a thumbnail sketch, but I won't do that now; I will do it privately. That is a great concern to all of us, but I certainly look forward to working with you and your staff precisely on the issues that affect our communities in southern California, since we utilize some say 65 percent of the water. I was under the impression it was a third, but nevertheless, that is an important part of our economy, and I certainly want to be sure that we work with the agencies. Thank you, Mr. Chair.

Mr. CALVERT. Great. We will have several rounds of questions. Mrs. Bono?

Ms. BONO. Thank you, Mr. Chairman, and I appreciate your letting me participate today even though I am not a member of your Subcommittee. I can't help but think as I sit here the Salton Sea and the plan, QSA, all of this, I kind of liken it to open heart surgery. And open heart surgery is a very wonderful thing, but it leaves a scar. And everything is right about open heart surgery. Many lives have been saved and qualities of life have been improved, but there is still a huge scar. And the scar in this is going to be the Salton Sea, and this is my fear.

And I believe people have a misunderstanding about my passion for the Salton Sea. And I believe I read in print Ms. Stapleton saying that if it weren't my late husband's passion, that it wouldn't be my passion either, and I disagree with that statement. I care as every Member of Congress who has cared about the Salton Sea and what happens there, but I don't believe there has been a thorough understanding of where the Salton Sea ought to go and what it ought to be, and does it necessarily need to be at the same level it is at now. I don't believe we have those answers yet, but it has been my concern and my hope that as we look at a $500 million increase, as suggested by the Salton Sea Authority, at least a $500 million increase in the solution to the Salton Sea, that we could hopefully address a lot of the consequences now that we know are

going to occur. We only have to look back 100 years to Owen's Valley to look at what happened there to know that these things are going to happen in the Coachella Valley.

Nobody has talked about nor addressed air quality. Mr. Secretary, I would love to hear your thoughts on air quality surrounding the Salton Sea after these water transfers go through, and if there isn't anything we ought to be doing now so we are not revisiting and putting sprinkler systems in in the future as they are now in Owen's Valley. Have you looked at air quality concerning the transfers and what the impact will be for the residents of Coachella Valley?

Mr. RALEY. Congresswoman, your letter to the Secretary very effectively raised that to both her attention and to mine. And since then I have seen additional information so I would characterize my knowledge on that as being limited but growing. I am also, however, either blessed or cursed, I am not sure which, just being in the Department of Interior. And as you know, air quality is a matter primarily for the states and the Environmental Protection Agency. And while I have met with some of the EPA management that work for Governor Whitman, this is not something I have had an opportunity to discuss with him.

Ms. BONO. OK. So we don't know is your answer. Ms. Stapleton, to you as well. And, second, actually to either of you, to tag onto that, can you just tell me who would be liable for air quality issues when the people of Coachella Valley—right now we live through, I am guessing, 12, 15 days of, I hate to call it a stench, but I don't know a better word for it. It is horrible, and I know you don't live there, and you certainly don't, so it is a stench. It is a sickening stench. So if we now have this order twice as often, three times as often, still we don't have those answers. So who will be responsible for that?

Ms. STAPLETON. A couple things. No. 1 is mitigation, the mitigation issue relates to the water agencies and the water transfer as opposed to a restoration issue or an existing condition. Related to the dust storm issue, actually that is part of the environmental review process. My understanding is that the research that has been done on that element indicates that dust storms related to the receding of the sea are highly unlikely because of the salt crust as well as the composition of the soil that is underneath the salt itself.

Ms. BONO. Excuse me for 1 second. I cannot believe that. And I would love for you to send that to me. So you are saying that you are saying that this is highly unlikely that there will be an increased exposure to airborne particulate.

Ms. STAPLETON. Right.

Ms. BONO. Erol Sea, Owen's Valley, these are not precedents that we can look to, but the Salton Sea is different.

Ms. STAPLETON. Right, that it is different and there has been analyses. And, absolutely, that is part of the environmental review process. They must look at air quality issues related to it. And what I understand is coming out of that is that based upon the analysis of the soil composition, the particle size, the salt crust, composition of the water of the Salton Sea, it is dramatically different than—

Ms. BONO. Does that equal stench? Is that scientific word for—is that—then you are also saying you are confident the stench won't be dramatically worse?

Ms. STAPLETON. I do not know related to the odor issues around the Salton Sea and if that would improve, decrease or remain the same, but I do know that the air quality has to be a component of the environmental review for both the EIR and the EIS.

Ms. BONO. So we still don't know. I think my 5 minutes—I think I am at about 30 seconds so far.

Mr. CALVERT. We can keep rotating.

Ms. BONO. It is Las Vegas. It is 24 hours. The lights are always on. Mr. Graff, in your testimony, you talked about—I scribbled it down up here somewhere, excuse me 1 second. You talked about the Pacific Institute solution to dike off portions of the sea and to save those that are environmentally sensitive areas and let the rest die or go. And to me that is sort of, again, another medical analogy. You want to amputate your elbow to save your hand. We are going to let the bulk of the sea die, and I don't quite understand that, and I would love to hear your thoughts on that proposal.

Mr. GRAFF. Well, I would answer it in two ways. First, I don't think it is death. It is a different environment. Hyper-saline environments elsewhere, Great Salt Lake and Mona Lake, to take two examples, are not dead; they are different. But I think the real answer is that there are limited resources, particularly financial resources at all levels—Federal, state and regional—to address these issues. And, realistically, we have had, I don't know, many decades of not addressing the Salton Sea as its conditions have degraded, and I think the Pacific Institute ought to be commended for proposing a solution that address many of the ongoing issues and projected further degradation in ways that potentially would bring sustainable solutions for many of those resources. Admittedly, there are problems. I don't think there are any perfect solutions out there, but I haven't seen any other proposals that meet as many of the environmental requirements as the Pacific Institute has put out at a reasonable cost.

Ms. BONO. But isn't that sort of assuming that it would meet environmental requirements? This is a hypothesis, but it hasn't been tried. Brown pelicans are going to know the difference between—that the good areas of the sea aren't going to have botulism, that they will avoid the bad parts and go to the good parts and put up little signs that say, "Brown pelicans come here and not"—I am just having fun with this.

Mr. GRAFF. It is a good—you know, I am not an ornithologist, but let me tackle that one. I think the idea, anyway, is that with water quality treatment for the inflows to the areas that would be diked off and protected, there would be less in the way of water quality degradation and dying fish than we have today. The birds are going to go where the fish are. If there are no fish in the middle of the sea, they are not going to go there. Maybe other birds will go there if there is a brine fly or brine shrimp kind of environment, I don't know. But I think at least the proposal is to address it in ways that are good for the birds, I mean better than existing conditions in some ways.

Ms. BONO. Thank you. And, Mr. Chairman, my time is winding down. I support the plan, and I think that those of you who have been curious about my position it is just been my hope we could do as much proactively as we could on this to answer some of these questions. And, hopefully, if we are going to spend $500 million more on the future at least, hopefully we can get a better bang for our buck by doing some of these things now. It is just my hope that at some point in time somebody, and I hope it would be the Administration, will look at this area and recognize that it is a symbiotic relationship and that we are all dependent on each other for it. And as water quality goes, so will air quality go.

And until somebody has the nerve to stand up and tackle the hard issues, and we all know that there are some very, very difficult issues here. The issue of—and I am not endorsing this proposal at all, but nobody has mentioned fallowing here, and at some point in time somebody is going to have to have the nerve to stand up and make these difficult choices. And in my view, the Administration is going to really have to step up to the plate, and I look forward to hosting the Secretary out on an air boat in the Salton Sea in the very near future. Thank you, Mr. Chairman.

Mr. CALVERT. We will put her up front in the air boat to get a close experience.

Mr. CALVERT. I don't want this to be a Salton Sea hearing, but obviously in order for us to get where we need to go we have to deal with this issue. And it appears that it is just not California's problem, because in order for us to get where we need to go we are going to have to get also the Upper Basin states to assist with support with the congressional delegation from the Upper Basin states in regards to the problem with the Salton Sea. Sometime that may be an educational process for members from California, but I was going to ask Mr. Anderson, do you see that the members in the Upper Basin states understanding the relationship with the Salton Sea and the QSA and how we have to resolve some of these issues to get where we need to go?

Mr. ANDERSON. It is hard for me to talk about all the other Upper Basin states and their understanding. My impression is that they do understand that there is a direct tie to the Salton Sea and the success of this plan, and I think that is why, as I understand, all the Upper Basin states wrote letters in support of H.R. 2764, whatever it was, in support of that in assistance to try and come to a solution on—one of the issues was the Salton Sea.

And I would only—you know, I live next to the largest salt sea in the country, as much salt here, of course, in the Salton Sea, and we do not have the same type of environment that you have in the Salton Sea. I would extend an invitation to this Committee, especially to Representative Bono, to come out, and I would be happy to make arrangements to take any of you out and give you a tour of the Great Salt Lake and the bird refuges that are associated with it.

I think you might find it extremely interesting to see the type of at least wildlife that exists at the bird refuge and U.S. fish, one of the largest and one of the oldest bird refuges in the United States. You might find it extremely interesting to see what happens, and there are literally tens of thousands of white pelicans

that exist on the Great Salt Lake. I have gone out there in the middle of June in air boats and just looked out in the distance. It absolutely looks like it just snowed in somebody plowed a snowplow trail of snow bank, a snow bank out in the distance where the pelicans are at. And there is, like I said, just literally tens of thousands. They stay there for the entire summer.

We have botulism problems that exist there, we have smell that exists there, but, again, I think it might help understand what happens if the Salton Sea gets saltier, which I, unfortunately, believe is going to be the case over time and see what some of your options might be to look and some of the refuges that we have created around the Great—again, I would be happy to make those arrangements for anybody that would like to come out. Took a group of folks from California out recently, let them look at it, and I think they were quite surprised at what we do out there.

Mr. CALVERT. And that was brought up—I am sure we will take advantage of that opportunity and get up to the Great Salt Lake and take a look at that.

One comment on the issue of fugitive dust, and it brings back a memory when I was a young lad back a long time ago, working for then the Congressman for Riverside County, Victor V. Veesey. And the biggest issue in the Coachella Valley 1 year was fugitive dust. I just remember that issue. That was before they developed this—Mary wasn't born yet—that is before they developed the golf courses and the great developments in that area that stopped breaking that up. So I suspect, though—I have seen dust when the sea has shrunk, so I suspect that is a problem, and it is going to have to be dealt with, and it is something that we will have to resolve in this next year. And I am certainly at the disposal of the Administration with my colleagues and with all of you to help work this thing out in the next year, because we are going to have to do that.

An issue that also came up on Mr. Hansen's language, on the 4.4, and statutorily putting that into law. Mr. Hansen wanted to send a message; he sent it. I think everybody heard that is that basically, I am sure if Jim was here would way, "We want to send a message to California to get our hands off of everybody else's water." But saying that, Mr. Caan is correct, we are going to have to work out some language, changes. I think there was a message there, but we will work that out. There is a number of issues we would have to work out in this legislation before it is brought to the floor, which we all recognize that we have to do. So I wouldn't get too excited about that.

Mr. Zimmerman, can you briefly explain—let us talk about some positive things here. We are going to get this—I am an optimist by nature. We will set the Salton Sea down for a second and talk about something else. Can you briefly explain the progress to date in attempting to implement the California's Colorado River Water Use Plan in the U.S.A.? What progress have we made so far.

OK. We have got to wait 5 minutes here while they change the tapes.

OK. Mr. Zimmerman.

Mr. ZIMMERMAN. Mr. Chairman, as I indicated, there is significant progress that has been made. We have the key term for the

Quantification Settlement Agreement. That kind of sets a road map of some of the programs that need to be implemented. One of the primary elements of the core water transfers is a 1988 MDW/IID conservation agreement, where a 110,000 acre feet of water have been transferred to the coastal plain of southern California.

Also, as I indicated, there is—$235 million have been provided by the State legislature to fund the lining of the canals—or $200 million of it for the lining of the canals, $35 million for the conjunctive use. As I indicated, the funding agreements between the State of California and the Metropolitan Water District have been executed for the lining of the Coachella Canal as well as the $35 million is cost shared with the Metropolitan Water District to implement the Hayfield Groundwater Storage and Retrieval Program. So progress is being made there.

Also, the Metropolitan Water District and the Palo Verde Irrigation District have key terms for a Land Management Crop Rotation Water Supply Program, which would provide Metropolitan Water District the ability in dry years to obtain water through a fallowing program and move that water from the Palo Verde Irrigation District to the Metropolitan Water District.

Mr. CALVERT. That was a very good agreement, by the way, and I congratulate Metropolitan for executing that agreement and moving that forward. So those types of solutions are going to be more than necessary in the future. Mrs. Napolitano. I am going to recognize her, and I am going to go back and forth.

Ms. NAPOLITANO. Thank you, Mr. Chair. I was just blackberrying you can I get two more questions in, so if you get that, that is the message.

[Laughter.]

Mr. CALVERT. Oh.

Ms. NAPOLITANO. A couple of things that kind of rattled around after listening to some of the questions and some of the notes that I had, and one of them is to you, Mr. Raley. And that is, is there any chance of being able to allow effective interstate water transfers when it comes time for us to be able to find additional water? I am under the impression they are not allowed now. There had been an offer by an entity, or at least not an offer, but a statement made at one time that they had excess water, and the MWD was interested at the time. And I am just wondering should something of that nature come up, happened to be somebody out of Utah, and would that be applicable?

Mr. RALEY. Congresswoman, if any—and I suspect you or your staff have done a lexus nexus search, you will find that in my prior life I was adamantly opposed to any such interbasin transfers, between the Upper and Lower Basin. That opposition was based not only on the interests of the parties I represented at the time, but on my personal conclusion that it was not permissible under the 1922 compact.

However, I have not addressed that issue specifically with the Secretary since we both joined Interior. I think it highly unlikely that we would embark on any such effort, because we want to focus on things that lead us other than to court, and I am virtually certain that an interbasin transfer proposal will trigger litigation dec-

ades, if not longer, in the United States Supreme Court, and we would rather focus on making progress than paying lawyers.

Ms. NAPOLITANO. I understand, and I agree. The idea, though, is if we are met with dire consequences, we need to take a look at other alternatives. That was one question. And what will be the effect—and this is also to Mr. Graff—the effect of the lining of the canals due to the replenishing of the aquifers?

Mr. RALEY. Congressman, which canals are you referring to, the All American canal?

Ms. NAPOLITANO. The one in California. We are lining some of those canals to be able to not have the seepage and the loss of water, and those refurbished aquifers, which are used by farmers and urban users.

Mr. RALEY. It is the position of the Department of Interior that that water belongs to the United States, not the United States itself but it is allocated and it is for use in the United States under applicable Law of the River. And so in terms of who ends up with it—

Ms. NAPOLITANO. Explain.

Mr. RALEY. Well, some have suggested that because there have been unlined canals and that canal seepage has increased groundwater mound in the Republic of Mexico that the Republic of Mexico has somehow obtained rights to the continuation of unlined canals and the water that that produces for the groundwater mound.

Ms. NAPOLITANO. That is not my thrust.

Mr. RALEY. OK, I apologize.

Ms. NAPOLITANO. I am talking about—right. No, I am talking about in the areas where there is farmland and there is—well, your underground rivers, of course, are all over; it isn't just down in the southern part of the State. And while I can understand Mexico wanting additional water, they are withholding almost the same amount, actually more, water along the Texas border. Our farmers are suffering drought and not getting their fair share of water. So I am not too, how would I say, partial to even thinking about Mexico's problem right now. Our concern is in California.

Mr. RALEY. With respect to the canal lining within California, there have been a lot of innovative efforts, and I wish to commend California and its stakeholders. Both State agencies and the agencies that are here today and those that aren't here have made enormous strides from where I thought they were 15 years ago to where we stand today on the brink of an incredible success. It is only through the hard work of the California agencies and I have no doubt that California will continue to be able to find innovative ways to use any remaining seepage to the benefit of—seepage derived from California's allocation from the Colorado River to the benefit California, as it should.

Ms. NAPOLITANO. Well, my concern, though, has any review been done of the—any geological studies that indicate any detrimental effect on the current well users, for instance, because they draw the water from the aquifers?

Mr. RALEY. Congressman, I am not aware of any. I am not saying they aren't; it is not something—it is not a matter that has come to my attention.

Ms. NAPOLITANO. Do you say that is something that we need to look at? Because that will increase the farmers having to use actual above-ground water.

Mr. RALEY. I do not pretend to be an expert in the intricacies of California water law, and the best I can do is to promise to get back to you on that.

Ms. NAPOLITANO. OK. Thanks. Mr. Graff?

Mr. GRAFF. Congresswoman, I think those problems are more prevalent in certain parts of the Central Valley and perhaps in urban southern California than they are either for the Coachella Canal lining—and Gerry Zimmerman can correct me on this if I am wrong—where the water that is seeping now goes to very saline groundwater basins that are basically unusable.

In the case of the—I do want to comment, though, on the case of the All American Canal. I think there are very creative possibilities in terms of negotiating with various interests in Mexico to combine a number of issues of concern there and here.

Ms. NAPOLITANO. Thank you, Mr. Graff. I am not necessarily referring to the Salton Sea issue. I am referring to—

Mr. GRAFF. No, I am talking about the All American Canal issue.

Ms. NAPOLITANO. Oh, OK.

Mr. GRAFF. Where you are—I mean I—well, I—

Ms. NAPOLITANO. I am in Los Angeles.

Mr. GRAFF. OK.

Ms. NAPOLITANO. Mr. Zimmerman, any thoughts on that?

Mr. ZIMMERMAN. Mr. Graff is right. We are lining the Coachella Canal and lining the All American Canal. The environmental compliance documents for both of those has been completed. I am not aware of any impact on farmers in the United States by lining either of those canals.

Ms. NAPOLITANO. But I am talking about California farmers.

Mr. ZIMMERMAN. Right. And within California's Colorado River Water Use Plan, we are focusing on California's source, the Colorado River, and not looking internally within southern California at projects and programs—

Ms. NAPOLITANO. I see.

Mr. ZIMMERMAN. —that each of the individual agencies may undertake. We are looking at just the supply coming from the Colorado River.

Ms. NAPOLITANO. OK. While it may not necessarily be tied into directly, it is tied into it indirectly, because I can tell you my municipal users have multiple wells, and they have been in existence for over 50, 80 years. Some of those wells have been shut down because of contamination, because they can no longer draw as much water out of the aquifers that they used to. And so they rely a lot more on the actual imported water. And so, consequently, there is a nexus there. Thank you, Mr. Chair.

Mr. CALVERT. Thank the gentlelady. I am going to let Bennett Raley escape, and I have a couple more questions, but he has a commitment. We appreciate your attending and look forward to working with you on a couple of little issues we have got to resolve here in the next year, some in the next 3 months.

Mr. RALEY. Thank you, Mr. Chairman. I think that was a polite way of saying you are tired of my non-responsiveness responses, so I will leave. Thank you.

[Laughter.]

Mr. CALVERT. No, you did very well. Have a great day.

Mr. Graff, I have heard from you and other organizations from the environmental community that for years have been pushing for agriculture to urban water transfers as a means to avoid construction of new dams and canals. Do you agree that the QSA is in line with that goal?

Mr. GRAFF. Yes.

Mr. CALVERT. That is a good answer. All right. If the QSA fails and if the special provisions of the ISG at the Interim Surplus Agreement are suspended, will the consequences be felt throughout California, as opposed just to the southern part of the State?

Mr. GRAFF. Your Honor, there was a quote in the San Francisco Chronical to that effect yesterday, so I guess my answer to that is, yes, although—I suppose it is probably yes, because Assistant Secretary Raley was careful to say that whatever action the Secretary would take in respect of the 2003 water year would be in accordance of the Law of the River, and there is at least some dispute as to what the Law of the River would provide in the event that the QSA is indeed not finally signed next December.

Mr. CALVERT. Going back to Salton Sea for a second, do environmental organizations, in general, support the restoration of the Salton Sea?

Mr. GRAFF. I think all environmental organizations that I am familiar with are interested in restoration of Salton Sea values. When one says restoration of the Salton Sea, I think it maybe takes a little beyond that. It is unclear what sea would be restored. So I think there are differences of view as to whether we can keep the current sea even with all its problems or whether we have to address a changing environment, irrespective of whether the transfers are approved in all their glory or not.

Mr. CALVERT. A question for the gentleman from Nevada. I asked this same question with the Upper Basin states, and maybe you can kind of fill in for Arizona at the same time. Obviously, if we are having a problem with the implementation of the QSA a year from now, I am just curious from your perspective about—now that Bennett Raley has left I can ask this question—about extending the deadline beyond December of 2002. I just thought I would get that on the table and ask.

Mr. CAAN. I would be happy to answer that. I think it might be presumptuous for me to speak for Arizona, but to the extent that they agree with what I say, I can speak for them. And if they don't agree with it, I decline to speak for them.

I think that over the 10 years we were developing the Interim Surplus Criteria, we knew that the—we knew we were approaching the day when Nevada and Arizona would be reaching their full apportionment, entitlements and that eventually California would have to get back to the 4.4 million acre feet of their entitlement as well. And we thought it would be difficult to do that but not impossible. So in the development of the criteria what I think we all agreed, as the seven Basin states, was that it is going to be dif-

ficult but not impossible to get where California needs to go. And that is why we prepared what Maureen had referred to as a soft landing, which is a 15-year period within which to bring California down to the 4.4 million acre feet.

It is important to note we are not specifically asking California to reduce its water consumption; what we are specifically saying is the reduction of the water consumption from the Colorado River to legal entitlement. I think given that we are at the very beginnings of the development of this program, we have just recently had the Interim Surplus Criteria signed, that we have been very innovative and creative solutions, I think looking at extensions or time extensions or changes at this point is probably premature. I think what we want to do is to retain the flexibility and creativity to meet the deadlines that have been so vigorously pursued and agreed to by the states.

Mr. CALVERT. In other words, you are open minded. I just bring that up because, as was pointed out by Mr. Zimmerman, there is a lot being done in order for us to wean ourselves from the Colorado River. It was mentioned the Palo Verde Valley, the Hayfield, et cetera, et cetera. There are other things going on in the State. And I would hope that you would keep open minded on that, because it seems that the Salton Sea issue is a very complex issue. We have been working on this for a number of years. I am hoping we can get this resolved relatively soon, but as long as you see good efforts going out there, I would hope that you be open minded to that. Mr. Graff?

Mr. GRAFF. If I might just say one thing. I think the most salient part and best part of the surplus guidelines is the schedule of benchmark quantities for California agricultural diversions in that it provides a steady diminution of how much water the Secretary will deliver the agricultural sector in California over a prescribed number of years. And that affords California a lot of flexibility and creativity in trying to maintain as much as possible the full Colorado River aqueduct for the urban areas, while addressing the problems that diminishing quantities of water to the agricultural areas would bring.

Mr. CALVERT. Any further comments from the panel? Yes, Mr. Anderson?

Mr. ANDERSON. I think from the standpoint of the majority of the states, the December 31 date is really a critical date and very important to, I would guess, five of the states. And I just want to point out that we have not received any report from California that they are not going to meet the deadline. The report is they will meet the deadline, they have never asked for an extension of time on that. I think the Record of Decision is pretty specific what the Secretary has to do, and if for some reason California is not going to meet the deadline, I think it behooves them to come to the Basin states and let us know and ask us if there is something we can work out.

Mr. CALVERT. We all, I think, want to see an agreement executed prior to December of 2002, but we have a lot of work to do. Any other comments? I want to thank the witnesses for attending and one last comment by—

Ms. NAPOLITANO. Just a question. What do you think, gentlemen and ma'am, you can do to help us reach the QSA? Any suggestions? I know I am not from the agency, but what do you suggest other than, well, coming to you and letting you know where they are at, where California is at?

Mr. ANDERSON. What California has asked the Basin states to do is to support H.R. 2764, and we have all done that. As far as I know, that is all that we have been asked to do, and we have all stepped forth, gone to our congressional delegations and asked them to support that piece of legislation.

Mr. CAAN. I would echo Mr. Anderson's comments. As I said earlier, from Nevada's point of view, the implementation of these criteria is linked to our ability to continue our water supplies for the future extend and continue those. We have supported the criteria itself, the soft landing, supported the bills that have supported the development of projects to help California. We will continue to support those kind of efforts, and that is why as the seven states, at least the six other states, have worked toward the support of those elements needed to ensure California can meet the deadline that are in the criteria.

Ms. NAPOLITANO. Maybe I should ask Mr. Zimmerman what can these other entities do to help California meet the deadline?

Mr. ZIMMERMAN. Give up their water.

[Laughter.]

Ms. NAPOLITANO. They are already giving us the water.

Mr. ZIMMERMAN. As I indicated in my testimony, you know, the critical date, and we in California believe that that is firm date, the December 31, 2002, what right now is standing in the way of being able to meet that date that is a major issue is the Salton Sea. And how we, you address the Salton Sea and in a timely manner hinges on the ability to meet that critical date of December 31, 2002. Within the State of California, Secretary Nichols, the secretary for the Resource Agency, is leading the discussions within California to look at the Salton Sea, the fully protected legislation within California and the issues that have been identified that have the potential of derailing of the execution of the agreement by the December deadline. So I guess I would encourage you to expedite whatever you can to assist California in addressing the Salton Sea issues.

Mr. CALVERT. Right. And by the way, from what Bennett said, they are going to have a number of preferred solutions, and I think we will have to coalesce behind one as soon as possible and move with whatever that may be as soon as possible as a solution to that problem. And hopefully that will be very soon.

If there is no other comments, again, I want to thank you all for coming out today. It was very informative, and we are adjourned.

[Whereupon, at 2:30 p.m., the Subcommittee was adjourned.]

[Letters submitted for the record follow:]

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JANE DEE HULL
Governor

JOSEPH C. SMITH
Director

October 29, 2001

Senator Jon Kyl
2200 E. Camelback, #120
Phoenix, AZ 85016

724 Hart Office Building
Washington, DC 20510

Dear Senator Kyl:

I am writing to call your attention to H.R. 2764, the Colorado River Quantification Settlement Facilitation Act, which has recently been introduced by Congressman Hunter and other members of the California delegation. The Bill will materially assist in the completion and implementation of the Quantification Settlement Agreement (QSA) which is the most critical component of the California Colorado River Water Use Plan (California Plan). The California Plan is comprised of a series of water conservation and transfer measures that will, over time, reduce California's dependence on surplus Colorado River water and allow that state to live within its 4.4 million acre-foot basic apportionment. The QSA is the agreement among all of the major California water agencies, which quantifies each contractor's respective rights and clears the path for the transfers to occur without the threat of objection. California's ability to live within its basic apportionment of Colorado River water has been, and continues to be, of great concern to Arizona and the other Colorado River Basin States.

In full reliance that the terms and conditions of the QSA and the California Plan will be implemented, Arizona supported the adoption of the Colorado River Interim Surplus Guidelines (ISG) by the Secretary of the Interior last January. The ISG allows California a 15-year period to transition to its basic apportionment as it puts its transfers and other programs in place. The ISG specifically provides that unless the QSA is placed into effect by December 31, 2002, the ISG will be suspended until such time as California completes all required actions and complies with the progressive reductions described in the California Plan. The enforcement provisions of the ISG were insisted upon by the State of Arizona and the other Basin States.

H.R. 2764 recognizes the special circumstances of the conservation and transfer programs, as they will affect the Salton Sea (Sea). The Bill provides for environmental and endangered species compliance with respect to the temporal impacts of water conservation efforts on the Sea. The California water agencies acknowledge that water conservation efforts within the Imperial Irrigation District will reduce return flows that currently make their way to the Sea, thus creating a higher concentration of salinity within the Sea. They are willing to accept the consequences of this impact, but are seeking a limitation on their exposure to environmental mitigation

requirements. Even without the water conservation efforts, the salinity in the Sea is increasing naturally and will eventually reach a point where impacts to habitat and endangered species are likely to occur. H.R. 2764 attempts to put this issue into perspective by limiting the environmental mitigation requirements to only those caused by the conservation activities and not placing the full burden to restoring the Sea on the backs of the California water agencies. Without this limitation, the costs of mitigation will become prohibitively expensive. This unanticipated expense will cause the water conservation/transfer measures to become economically infeasible. Arizona and the other Basin States are concerned that without a feasible water conservation and transfer program the foundation for the entire QSA and California Plan will unravel.

The bill also authorizes the funding and construction of small off-stream regulating reservoirs along the alignment of the All American Canal. Arizona believes that these reservoirs will provide a significant water management benefit to all Colorado River water users including those in Arizona. The purpose of these reservoirs is to recapture water that has been released from Parker Dam based on water orders but, for a variety of reasons, is no longer needed by Arizona or California water users. Under current circumstances, this water flows downstream to Mexico and is used by water users in that Country. However, since this water was not ordered by Mexico, it does not count as a Mexican Water Treaty delivery. If the new off-stream reservoirs are constructed the water would instead be routed to the reservoirs and would later be used to meet water orders within California, thus conserving overall system supplies.

California has made significant progress in implementing its California Plan. We believe that the concepts incorporated into H.R. 2764 will help facilitate the implementation of the Plan by allowing the water conservation measures to move forward in a timely manner. Favorable action by Congress on this bill will ensure that California can complete the necessary environmental compliance, execute the QSA and related documents and implement the transfers and other programs in a manner consistent with the ISG.

Should you need any additional information on this issue, please contact me directly at 602-417-2410.

Sincerely,

Joseph C. Smith
Director

JCS:kd

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DEPARTMENT OF NATURAL RESOURCES

Bill Owens
Governor

Greg E. Walcher
Executive Director

October 5, 2001

The Honorable Wayne Allard
U.S. Senator
525 Dirksen Office Building
Washington, D.C. 20510

Dear Senator Allard:

The State of Colorado is writing to urge your support for the Colorado River Quantification Settlement Facilitation Act, H.R. 2764, introduced in the House of Representatives by California Congressman Duncan Hunter. This bill implements the Quantification Settlement Agreement (QSA), the critical component of the California's Colorado River Water Use Plan (the 4.4 Plan). The 4.4 Plan provides that California live within its basic 4.4 million acre-feet annual apportionment of Colorado River water. As you know, The State of Colorado remains very concerned that California implement this plan and stop relying on system surpluses and other states' compact apportioned water.

The QSA provides for quantification of California parties' rights and priorities to Colorado River water and for agriculture to urban water transfers essential to the 4.4 Plan. These key features, together with storage and conjunctive use programs, and other water supply measures, are the means by which California will live within its apportionment of Colorado River water.

In January 2001, the Secretary of the Interior, in consultation with the Basin States, issued the Colorado River Interim Surplus Guidelines (Guidelines). The Guidelines allows California a 15-year period to transition to its basic apportionment. Unless the QSA is executed by December 31, 2002, the Guidelines will be suspended until such time as California completes all required actions and complies with the required reductions in water use.

H.R. 2764 also helps advance reclamation of the Salton Sea and provides for environmental and endangered species compliance with respect to potential impacts of the QSA on the Salton Sea. The State of Colorado supports these efforts as a step towards reducing California's reliance on Colorado River water provided no Colorado River water goes toward Salton Sea reclamation efforts (see Public Law 105-372) and funding for important Colorado water projects, such as Animas-La Plata is not impacted. The State of Colorado, through present and future generations, will utilize all of its compact apportioned waters.

We urge the Congress to help facilitate the implementation of the QSA so that California can complete the necessary environmental compliance, execute the QSA and related documents, and implement the transfers and other programs in a manner consistent with the 4.4 Plan.

We request your support for this important legislation and urge you to consider joining Congressman Hunter as a co-sponsor. Thank you for your consideration. If you have any questions or concerns, please do not hesitate to contact me or Kent Holsinger of my staff.

Sincerely,

Greg E. Walcher,
Executive Director

cc: Colorado Congressional Delegation
Colorado Water Conservation Board
Colorado River Advisory Council

SOUTHERN NEVADA
WATER AUTHORITY

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October 5, 2001

The Honorable Harry Reid
United States Senate
SH-528 Hart Senate Office Building
Washington, DC 20510-2803

Dear Senator Reid:

In January 2001, the Secretary of the Interior, in consultation with the Basin states, issued the Colorado River Interim Surplus Guidelines (Guidelines). These Guidelines follow the California Colorado River Water Use Plan (California Plan) which provides for California to live within its basic 4.4 million acre-feet annual apportionment of Colorado River water. In recent years, California has been using approximately 5.2 million acre-feet per year of Colorado River water, relying on system surpluses and apportioned but unused waters of Nevada and Arizona that are no longer available on a reliable basis. California's ability to live within its basic apportionment of Colorado River water has been, and continues to be, of great concern to Nevada and the other Colorado River Basin states. The Guidelines allow California a 15-year period to transition to its basic apportionment as it puts its transfers and other water conservation programs in place.

This California Plan however is dependent upon the future implementation of a Quantification Settlement Agreement (QSA) among the California water users. The QSA provides for further quantification of California parties' rights and priorities to Colorado River water, and for core agriculture to urban water transfers essential to the California Plan. These key QSA features, together with storage and conjunctive use programs, and other cooperative water supply programs and measures, are the means by which California will be able to live within its basic apportionment of Colorado River water and is therefore critical to the success of the California Plan. Unless the QSA is executed by December 31, 2002, the Guidelines will be suspended until such time as California completes all required actions and complies with the progressive reductions in water use reflected in the Guidelines.

The Guidelines also allow Nevada to use Colorado River Water above its basic apportionment for the 15-year period. Consequently, if the Guidelines are suspended for lack of approval of the QSA by California, this could effect Nevada's ability to meet its future water resource needs.

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General Manager

The Honorable Harry Reid
October 5, 2001
Page Two

We would like to call your attention to congressional legislation, H.R. 2764 the Colorado River Quantification Settlement Facilitation Act, introduced by California Congressman Duncan Hunter. H.R. 2764 helps facilitate the successful implementation of the QSA by recognizing the special circumstances which relate to both the water transfers and the Salton Sea, including the congressional direction in the 1998 Salton Sea Reclamation Act (Public Law 105-372) which specifically supported the transfers in the context of reclaiming the Sea. H.R. 2764 helps advance consideration of the reclamation of the Sea, and provides for environmental and endangered species compliance with respect to potential temporal impacts of the QSA water conservation/transfers on the Sea. At the same time, the proposed Act would preserve the opportunity for future congressional action on the Sea once the feasibility study under Public Law 105-372 is submitted to the Congress. To address any potential impacts, the bill provides $60 million for the first phase of Salton Sea reclamation if Congress authorizes it prior to 2007 or for enhancement programs to protect endangered species habitat around the Salton Sea after 2007 if Salton Sea reclamation is not authorized.

The bill also provides $53 million for small off-stream re-regulating reservoirs and associated facilities to improve water conservation and river management. The Bureau of Reclamation estimated that last year about 300,000 acre-feet was lost from Colorado River reservoir storage because of the inability to re-regulate lower Colorado River flows. The increased ability to re-regulate lower Colorado River flows will conserve water and benefit all Basin states.

California has made great progress in implementing the California Plan. We urge the Congress to help facilitate the implementation of the QSA so that California can complete the necessary environmental compliance, execute the QSA and related documents, and implement the transfers and other programs in a manner consistent with the Guidelines deadlines.

We request you review H.R. 2764 and support its successful enactment in this Congress.

Sincerely,

Pat Mulroy

Patricia Mulroy
General Manager

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October 1, 2001

The Honorable Pete V. Domenici
United States Senator
SH-328 Hart Senate Office Building
Washington, D.C. 20510-3101

Dear Senator Domenici:

We would like to call to your attention H.R. 2764, the Colorado River Quantification Settlement Facilitation Act. The bill helps provide for the implementation of the Quantification Settlement Agreement (QSA), the critical component of the California Colorado River Water Use Plan (California Plan). The California Plan provides for California to live within its basic annual apportionment of 4.4 million acre-feet of Colorado River water. In recent years, California has been using about 5.2 million acre-feet annually of Colorado River water relying on system surpluses and apportioned but unused waters of Nevada and Arizona that are no longer reliable. California's ability to live within its basic apportionment of Colorado River water has been, and continues to be, of great concern to the other Colorado River Basin states and Mexico.

In January 2001, the Secretary of the Interior, in consultation with the Basin states, issued the Colorado River Interim Surplus Guidelines (ISG). The ISG allow California a 15-year period to transition its use back to its basic apportionment as it puts into place water transfers and other programs. The ISG specifically provide that unless the QSA is placed into effect by December 31, 2002, the ISG will be suspended until such time as California completes all required actions and complies with the progressive reductions in water use reflected in the ISG.

The QSA provides for quantification of the California parties' rights and priorities to Colorado River water, and provides for agriculture use to urban use transfers essential to the California Plan. These QSA features, together with storage and conjunctive use programs, and other cooperative water supply programs and measures, are the means by which California will be able to live within its basic apportionment of Colorado River water.