

Supporting Statement A
BUREAU OF RECLAMATION

DIVERSIONS, RETURN FLOW, AND CONSUMPTIVE USE OF
COLORADO RIVER WATER IN THE LOWER COLORADO
RIVER BASIN

OMB Control Number 1006-0015

Terms of Clearance: None.

General Instructions

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The Secretary of the Interior (Secretary) manages and operates Federal projects in the lower portion of the Colorado River system (Lower Basin) and controls the distribution of waters from the Colorado River in the Lower Basin. The Boulder Canyon Project Act (BCPA) dated December 21, 1928 (45 Stat. 1057, 43 U.S.C. 617) and other related actions apportioned Colorado River water among the States of Arizona, California, and Nevada (Lower Division States). The Supreme Court, in its opinion of June 3, 1963 (373 U.S. 546 (1963)), and decree entered March 9, 1964 (376 U.S. 340 (1964)), and the Consolidated Decree of the Supreme Court of the United States, in the case of *Arizona v. California, et al.*, entered March 27, 2006, (547 U.S. 150 (2006)) (Consolidated Decree) concluded that the Congress intended the Secretary to determine, through contracts entered into by the Secretary pursuant to section 5 of the BCPA, which users within each State would get water and under what terms.

The BCPA requires all water users to enter into contracts with the Secretary. Specific Federal establishments named in Article II (D) of the Consolidated Decree are excused from

this requirement. The Court ordered the United States to prepare and maintain complete, detailed, and accurate records of diversions of water, return flow, and consumptive use. This information is needed to ensure that a State or a water user within a Lower Division State does not exceed its authorized use of Colorado River water. Water users are obligated by their water delivery contracts to schedule water diversions in advance, to maintain records of annual diversions and return flow to the river, and to periodically report this information to the Bureau of Reclamation which performs the Secretary's obligations on the lower Colorado River. Reclamation determines water users' consumptive use by subtracting return flow from diversions or by use of various estimation methods. Failure to collect this information would diminish Reclamation's ability to account for the amount of Colorado River water use and could lead to excess Colorado River water use by an individual water user, a Lower Division State, or the Lower Basin. Excess Colorado River water use would violate Federal statutory law, interstate compacts, an international treaty with Mexico, and water delivery contracts. Without this information, Reclamation could not comply with the order of the Supreme Court to prepare and maintain detailed and accurate records of diversions, return flow of water to the Colorado River, and consumptive use.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

This information collection includes forms LC-72A, Diversions of Colorado River Water and Return Flow for Municipal, Industrial, and Domestic Uses in the State of (Enter State); and LC-72B, Fee for Diversions of Colorado River Water for Municipal Industrial, and Domestic Uses in the State of (Enter State). Form LC-72A is an annual report that asks for diversions of Colorado River water from river intakes and wells by month, new points of diversion, if any, return flow amounts for metered flows and estimated flows, and the method used to estimate return flows when relevant. Form LC-72B is for diversions of Colorado River water and annually requests the same information as LC-72A but also includes computation of charges due pursuant to a water delivery contract with the Secretary. Due to convenience, some entitlement holders have elected to submit their diversion reports via email using Excel workbooks or other customized formats that include all necessary information required by their water contract. The forms and customized responses record information necessary to prepare and maintain complete, detailed, and accurate records of diversions of Colorado River water, return flow to the river, and consumptive use of Colorado River water. Some water users submit this information via email using customized responses, some using scanned copies of the forms, or directly via electronic versions of the forms. The information is used to enable the Secretary to manage the lower Colorado River consistent with the Consolidated Decree. Data for each water user regarding diversions, return flow, and consumptive use of Colorado River water helps the Secretary to ascertain if a water user is exceeding its entitlement. The information received from the collection is processed and published by Reclamation in the annual report entitled, "Colorado River Accounting and Water Use Report Arizona, California, and Nevada" in accordance with Article V of the Consolidated Decree. The annual report is available to Colorado River water users, interested parties, and the general public.

Colorado River water users must schedule water deliveries in advance because the Consolidated Decree requires the Secretary to limit water releases to those quantities of water that are required for irrigation and domestic use in the States of Arizona, California, and Nevada and to meet the United States water treaty obligation to Mexico pursuant to 59 Stat. 1219 (1944). The information collection allows Reclamation, on behalf of the Secretary, to monitor and project each water user's diversion of Colorado River water throughout the year to ensure a water user does not schedule water deliveries in excess of its Colorado River water entitlement. Reclamation may require an individual water user to reduce its diversions in any year if: (a) that water user would exceed its entitlement, (b) that water user's State would exceed its apportionment, or (c) the Lower Division States would collectively exceed the quantity of Colorado River water available for consumptive use by the Lower Division States in that year. If information on Colorado River diversions and return flows is not collected, Reclamation would be unable to prevent excess use of Colorado River water. The Secretary would be vulnerable to litigation by Colorado River water entitlement holders whose water rights would be harmed.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements**

Reclamation is equipped to receive, and encourages water users to transmit, the information electronically. Most of the large water users already have automated systems to report this information to Reclamation. We encourage electronic reporting, but not all respondents have electronic reporting capability. Reclamation assists water users in establishing an automated reporting system upon request.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This is the only program that collects this type of information from water users. This information is not available from any other source. There is no duplication of information collection.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The information requested is limited to the quantities of (a) Colorado River water diverted from the Colorado River and (b) return flow to the river. Automated collection techniques are encouraged to reduce the burden.

- 6. Describe the consequence to Federal program or policy activities if the collection is not**

conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If this information is not collected or is collected less frequently, the Secretary would lack the necessary data to prepare, maintain, and publish complete, detailed, and accurate annual records of diversions of Colorado River water, return flow, and consumptive use as required by the Consolidated Decree. The Secretary would be unable to monitor use of Colorado River water and protect the rights of lawful water users because any excess Colorado River water use would not be identified. The United States could be at risk of litigation and claims for damages by water users especially if water surface elevation of Lake Mead falls to an elevation which would trigger water shortage in the Lower Basin.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

a. Requiring respondents to report information to the agency more often than quarterly.

Information is required periodically, as the Secretary deems necessary to ensure that water users do not exceed their entitlements and to improve overall management and operation of the lower Colorado River. Some of the reporting entities are required to report information annually. The other reporting entities are larger water users, consisting of municipalities, water companies, and irrigation districts which are required by their Colorado River water delivery contracts with the Secretary to report water use both monthly and annually. Some of the largest water users operate sophisticated automated systems which monitor and control water deliveries on a real-time basis for system operations and water treatment purposes. More frequent information collection from larger entities helps the Secretary protect all Colorado River water entitlements because timely water use information enables the Secretary to work with a Colorado River water user to prevent excess. The timeliness of water use information is critical from large water users particularly toward the end of the calendar year because of the risk that excess water use by a large water user may cause a Lower Division State to exceed its apportionment of Colorado River water for the year.

b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

Not applicable.

c. Requiring respondents to submit more than an original and two copies of any document.

Respondents are not required to submit more than one original report.

d. Requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than 3 years.

Respondents are not required to retain information on water diversions and consumptive use beyond 1 year for the purpose of reporting information to Reclamation. However, Colorado River water must be put to beneficial use, and State law subjects a water user's entitlement to forfeiture if it is not used for a specified period (usually 5 years). Record retention may be advantageous for a Colorado River water user to prove that Colorado River water was put to beneficial use.

- e. In connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study.**

No statistical methods are used to collect this information.

- f. Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.**

Statistical data classification will not be used.

- g. That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.**

A pledge of confidentiality is not used.

- h. Requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Submission of proprietary or confidential information is not required.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Notice was given in the *Federal Register* on November 23, 2018 (83 FR 59414). No comments were received on this information collection.

- a. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The Lower Division States have the right, under the BCPA, to consult with the Secretary on plans for the control and use of Colorado River resources. In practice, Reclamation consults with the Lower Division States, Native American entities, and Colorado River water users on an ongoing basis on matters related to river operations. For example, Reclamation consults with the Lower Division States and the water users several times each year to develop the Annual Operating Plan for Colorado River Reservoirs. In order to efficiently operate and manage the Colorado River in the Lower Basin, Reclamation obtains the views of the Lower Division States and water users on scheduled water orders, actual diversions, return flows, and consumptive use.

Water Users Contacted and Summary of Findings:

In addition to contacting the Lower Division States, Reclamation contacted two water users: one individual in Bullhead City, Arizona; and a small entity in Winterhaven, California. The two water users use the forms for reporting their Colorado River water use. They were asked questions regarding the forms' clarity, length of time to complete the forms, whether or not the frequency of information collection is adequate, and whether or not the data required for the forms is readily available. Reclamation also requested the water users to provide suggestions for improvement of the forms.

The water users reported that (i) the forms are easy to understand, (ii) the instructions on the forms are clear, (iii) no problem is experienced with the frequency of either monthly reporting or annual reporting, and (iv) one suggestion for improvement was to make the form completely web-based to reduce time and paper.

Based on the contacts with the two water users and our consultations with the Lower Division States to develop the annual operating plan for operation of the Colorado River, we have reaffirmed that the estimate of the time burden for completing the forms or for submitting a customized response continues to be 10 minutes.

- b. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

See 8a above.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payments or gifts will be provided to respondents.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

No assurance of confidentiality is provided to the respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No sensitive or private information is requested.

12. Provide estimates of the hour burden of the collection of information. The statement should:

a. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

The estimated number of respondents for this information collection is 53. We estimate that there will be 23 respondents monthly and 30 respondents annually, which are primarily state or local government sponsored entities and a relatively small number of private entities.

b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.

Information on water diversions is reported on LC-72A and LC-72B (to include custom formats that include the same information). Specifics regarding respondents and burden hours per form/response are as follows:

Monthly/ Annual	Form No.	Number of Respondents	Minutes/ Response	Number Responses/ Respondent	Total Hours/ Year	Total Responses/ Year
Annual	LC-72A	1	10	1	0.17	1
Monthly	LC-72A	23	10	12	46	276
Annual	LC-72B	29	10	1	4.8	29
Total		53			51	306

- c. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under “Annual Cost to Federal Government.”**

The potential cost to respondents is estimated to be \$26.62 per hour for time spent by clerical staff to search for required information and complete the form, as determined by the United States Bureau of Labor Statistics (BLS) at <http://www.bls.gov/ncs/>. The cost per hour including benefits is \$37.27 (\$26.62 x *1.4 benefits multiplier). * BLS news release USDL-18-1499, December 14, 2018. The total estimated hour burden as a dollar equivalent is \$1,900.77 (\$37.27 cost burden x 51 burden hours).

13. Provide an estimate of the total annual non-hour cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components:**
- (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

There are no capital start-up costs associated with this information collection. There are also no operation and maintenance costs associated with this information collection. The purchase of computers or other specialized equipment or services to schedule water orders or to record and report information is part of the customary and usual business practices of respondents.

- * If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

Not applicable, see above.

- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.

Not applicable, see above.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The cost to the Federal Government for complying with the Consolidated Decree by preparing and maintaining complete, detailed, and accurate records of diversions of water, return flow, and consumptive use is estimated to be \$256,796. These costs include labor, equipment, travel, and supplies. The updated estimate is based on fiscal year 2018 costs and labor hours.

Reclamation Costs (2018 \$):

Water Accounting Data Compilation, Publication, and Operational Support

Labor (5,209 hours)	\$251,907
Supplies	\$4,148
Equipment	\$741
Printing	<u>\$0</u>
Total Estimated Federal Costs:	\$256,796

- The wage rate figure is based on the following: The average grade level of staff included in this cost estimate is GS-12 step 5.
- The 2018 hourly base wage for a GS-12 step 5 Federal employee is \$34.54.
- The total hourly wage with benefits is \$48.36 (\$34.54 base wage X *1.4 benefits multiplier). * USDL-18-1499, December 14, 2018.
- Information was obtained from the Office of Personnel Management.
- https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/GS_h.pdf.

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

Reclamation is reporting a slight increase in the hour burden of the information collection because it was discovered that a number of monthly respondents were not reporting.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other

actions.

In May of each year Reclamation publishes this information in a report entitled, "Colorado River Accounting and Water Use Report Arizona, California, and Nevada." These records are available in print and on the Lower Colorado Region's website for inspection by interested persons pursuant to the Consolidated Decree.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the expiration date for OMB approval of the information collection.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.