

**U.S. Department of the Interior
Office of Inspector General**

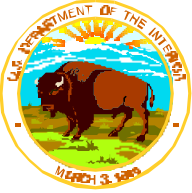
**Cost Ceiling
Should Not be
Used as Basis
for
Congressional
Appropriations**



Jordanelle Reservoir of the Bonneville Unit
Photo Courtesy Bureau of Reclamation

**Construction Cost Ceiling
Bonneville Unit
Central Utah Project**

**Report No. 01-I-20
October 2000**



UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF INSPECTOR GENERAL

Western Region Audits
2800 Cottage Way, Room E-2712
Sacramento, California 95825

7430
October 24, 2000

Memorandum

To: Assistant Secretary for Water and Science

From: Michael P. Colombo
Regional Audit Manager, Western Regional Office

Subject: Final Report on the Bureau of Reclamation's Calculation of the Authorized Construction Cost Ceiling for the Bonneville Unit, Central Utah Project (No. 01-I-20)

The attached report presents the results of our review of the Bureau of Reclamation's (BOR) calculation of the \$1.4 billion construction cost ceiling for the Bonneville Unit, a multipurpose water development unit within the Central Utah Project. Your July 21, 2000 response disagreed with our conclusion that the cost ceiling was not reliable and stated that the Central Utah Project Completion Act (CUPCA) Office could use BOR's calculation as the basis for requesting additional appropriations to complete the Central Utah Project. The response also provided comments on our findings and stated that the Program Director would inform Congress of our "audit report findings," along with the underlying disagreements of the CUPCA Office and BOR.

We modified our report based on your comments, but continue to believe that the cost ceiling is not reliable. We also believe that it is appropriate for Congress to determine whether the current cost ceiling should be used as a basis for additional appropriations. Therefore, we are referring the recommendation to the Assistant Secretary for Policy, Management and Budget to be tracked as unresolved until Congressional action is taken on this issue.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to Congress on all audit reports issued, the monetary impact of audit findings, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

If you have any questions or comments regarding our report, please call me at (916) 978-5653.

Attachment

Executive Summary

Bonneville Unit Construction Cost Ceiling

Congress authorized the Bonneville Unit (Bonneville) in 1956 as a multipurpose water development within the Central Utah Project. To control the Federal funds invested in water projects, Congress establishes a construction cost ceiling, which represents the maximum amount that can be spent for project construction without additional Congressional authorization. Congress also allows the authorized ceiling to be updated annually for changes resulting from economic factors (usually inflation). The process of updating the cost ceiling is called indexing.

In 1972, Congress first authorized the Bureau of Reclamation (BOR) to index Bonneville's cost ceiling annually. As of August 1998, BOR calculated Bonneville's authorized cost ceiling at \$1.4 billion, consisting of expenditures of about \$1.3 billion and a remaining ceiling available for appropriation of about \$103.5 million.

In 1999, the Program Director of the Central Utah Project Completion Act (CUPCA) Office (*see Glossary*), established by Congress to oversee completion of Bonneville, requested that our office review the accuracy and reliability of BOR's calculation of Bonneville's cost ceiling.

Results In Brief

BOR Calculation of Cost Ceiling Unreliable:

1. BOR Records Were Insufficient

We concluded that BOR's \$1.4 billion cost ceiling calculation for Bonneville was not reliable and should therefore not be used as the basis for requesting additional Congressional appropriations for the following three reasons:

BOR records were insufficient to support historical amounts included in and adjustments made to the cost ceiling computations over the life of Bonneville. For example, BOR records were no longer available to support:

- # Expenditures from 1966 through 1997 classified as noncontract costs, which totaled \$280 million (about 21 percent of total expenditures of \$1.3 billion);
- # Expenditures from 1966 through 1974;

2. BOR Continued to Index Unbuilt Commercial Power and Irrigation Features

3. BOR Did Not Record Expenditures of \$14.6 Million

History of Concerns About Reliability of BOR's Cost Ceiling Calculations

Other Issues Related to Bonneville Cost Ceiling Reliability

- # Cost ceiling calculations from 1972 through 1982 performed by BOR's Upper Colorado Region;
- # The majority of adjustments made by BOR since 1996, which resulted in \$103.5 million of reported available cost ceiling, and
- # Base dates and the amounts (*see Glossary*) listed to index costs.

BOR incorrectly continued to index Bonneville's unbuilt commercial power and irrigation features that it was no longer authorized to construct after Congress significantly curtailed BOR's involvement in the construction of Bonneville in 1992. The continued indexing of these features for inflation incorrectly increased Bonneville's cost ceiling by about \$63 million.

BOR did not record \$14.6 million of expenditures against Bonneville's cost ceiling, thereby overstating the ceiling available for appropriation by that amount.

We also noted that similar concerns about the reliability of BOR's cost ceiling calculations had been expressed in independent General Accounting Office (GAO) and Congressional reports over the past 25 years. As early as 1975, a GAO report questioned the reliability of BOR's cost ceiling calculation procedures and practices. Congressional committee reports in 1976, 1988, and 1992 were also critical of BOR's procedures and practices and the reliability of cost ceiling calculations. In addition, BOR, as the result of internal reviews, made major adjustments in Bonneville's cost ceiling calculations. These adjustments had the overall effect of significantly adjusting the authorized cost ceiling from no funds being available for appropriation in 1994 to \$103.5 million being available in 1998.

In addition, we noted two other issues related to adjustments to BOR's cost ceiling for Bonneville that deserve mention (see Appendix 4).

- # BOR increased Bonneville's cost ceiling by \$62.4 million for general legislation costs (*see Glossary*) for road construction. While it is clear that BOR had the authority to expend funds for these roads, our research did not identify any authority for BOR to increase the authorized cost ceiling.
- # BOR increased Bonneville's cost ceiling by \$67.6 million within the authority of Public Laws 100-563 and 102-575. We noted, however, that the increases were not consistent

Recommendation

with the information BOR provided to the Congress in support of the legislation.

We recommended that the Program Director of the CUPCA Office discontinue using BOR's cost ceiling calculation for the Bonneville Unit as a basis for requesting additional appropriations. If BOR's calculation is used, the Program Director should inform Congress that the cost ceiling calculation is not reliable.

Assistant Secretary Response

On July 21, 2000, the Acting Assistant Secretary for Water and Science provided a written response to our draft report (Appendix 7), which included comments from the Program Director of the CUPCA Office and BOR's Commissioner. In the response, the Assistant Secretary disagreed with our findings and stated that the CUPCA Office would continue to use BOR's calculation as the basis for requesting additional appropriations. The Assistant Secretary also stated that the Program Director would inform Congress of our "audit report findings," along with the underlying disagreements of the CUPCA Office and BOR.

OIG Reply

We continue to differ with the Assistant Secretary on the reliability of the cost ceiling and the issues raised by our review. We also believe that Congress should be informed and determine whether the current cost ceiling should be used as a basis for additional appropriation. Therefore, we will refer the recommendation to the Assistant Secretary for Policy, Management and Budget to be tracked as unresolved until Congressional action is taken on this issue (Appendix 8).



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Glossary	Inside Back Cover
Abbreviations:	
BOR	Bureau of Reclamation
CRSP	Colorado River Storage Project
CUPCA	Central Utah Project Completion Act
CUWCD	Central Utah Water Conservancy District
GAO	General Accounting Office
OIG	Office of Inspector General
Bonneville	Bonneville Unit

Background

Bonneville Authorized in 1956

Congress authorized construction of the Bonneville Unit (Bonneville) in 1956 as part of the Central Utah Project, which in turn is part of the larger, multistate Colorado River Storage Project (CRSP)¹ (*see Glossary*).

Bonneville is a multipurpose water development, consisting of six dams; eight major diversion dams; and 65 miles of aqueducts, tunnels, and pipelines, to supply water for irrigation and for municipal, industrial, fish and wildlife, and recreational uses in central and northeastern Utah. BOR began constructing Bonneville in 1966.

Congress Controls Federal Expenditures by Cost Ceilings

Congress controls and monitors the Federal money spent in developing water projects, including Bonneville, by establishing an “authorized cost ceiling,” which is the maximum amount of money that Congress will appropriate to construct a project. Congress bases the amount of the authorized cost ceiling, in part, on cost estimates prepared by the Federal agency responsible for constructing the project, in this case BOR. Since a water project can take many years to come on-line, from project authorization to completion of construction, Congress allows the authorized cost ceiling to be updated annually for changes resulting from economic factors, usually inflation. The updating process is called indexing.

BOR Increases Cost Ceiling Annually for Inflation

Congress authorized BOR to begin indexing Bonneville’s authorized cost ceiling in 1972 and gave BOR discretion in establishing and applying the procedures and methodologies to be used in the indexing process. As detailed in BOR regulations, BOR’s procedures include:

- # Indexing the amounts not expended based on BOR-developed indices for the types of project elements, such as land, tunnels, dams, roads, and canals, and
- # Comparing the updated authorized cost ceiling with the total estimated Federal obligations required to complete the project to determine the ceiling’s adequacy. If equal to or greater than the estimated obligations to complete the project, the updated ceiling is adequate. If less than the estimated obligations, the updated ceiling is inadequate, and BOR must either (1) restructure the project within the updated authorized cost ceiling amount or (2) inform

¹In 1956, Public Law 84-485 authorized \$760 million for CRSP, but did not specify the amounts available for each of the participating water projects or include any provisions for indexing the authorized cost ceiling for inflation. From 1956 to 1972, BOR expended about \$64.5 million for Bonneville.

Congress of the need for additional cost ceiling authorization to complete the project.

In 1992, Congress transferred the majority of the responsibility and funding authority for completing the remaining planning and construction of the Central Utah Project from BOR to the Central Utah Water Conservancy District (CUWCD) (*see Glossary*). Congress also established the Central Utah Project Completion Act (CUPCA) Office under the auspices of the Department of the Interior, to oversee the completion of the Central Utah Project.

In its Fiscal Year 1998 Annual Report, BOR stated that it had completed its portion of Bonneville, including the infrastructure for the municipal and industrial water and agricultural irrigation systems and recreational facilities, at a cost of \$1.3 billion. CUWCD is continuing construction of Bonneville features for which it is responsible, including the distribution infrastructure for the agricultural irrigation system.

As of August 1998, BOR's calculation of the \$1.4 billion construction cost ceiling for Bonneville consisted of expenditures of about \$1.3 billion and a remaining available ceiling of about \$103.5 million. In 1999, at the request of the Program Director of the CUPCA Office, we reviewed BOR's computation of Bonneville's authorized cost ceiling. The scope of our review is detailed in Appendix 1, and related reports are summarized in Appendix 2.

Results of Review

Cost Ceiling Calculations Unreliable

We concluded that BOR's calculation of a \$1.4 billion cost ceiling, consisting of expenditures of about \$1.3 billion and a remaining available ceiling of about \$103.5 million, was unreliable and should not be used as the basis for requesting additional Congressional appropriations for the following three reasons: (1) BOR records were insufficient to support historical amounts included in and adjustments made to cost ceiling computations over the years; (2) BOR continued to index unbuilt power and irrigation features that it was no longer authorized to construct after 1992, which incorrectly increased Bonneville's cost ceiling and the amount available for appropriation by about \$63 million; and (3) BOR did not record expenditures of \$14.6 million against Bonneville's cost ceiling, thereby overstating the available ceiling.

1. BOR Records Were Insufficient

The insufficiency of records was a major problem in evaluating BOR's cost ceiling calculations. We found that BOR's Upper Colorado Region, which calculates Bonneville's cost ceiling, did not have sufficient records to fully support historical amounts included in and adjustments made to the cost ceiling computations for Bonneville. Records were no longer available to support the following:

- # Expenditures classified as noncontract costs from 1966 through 1997. Regional personnel told us that they had distributed these costs to numerous plant accounts and could no longer identify a particular transaction or provide the original supporting documentation. These costs totaled \$280 million or about 21 percent of total Bonneville expenditures. This matter alone sufficiently restricted our testing so as to preclude us from attesting to the reliability of the cost ceiling.
- # Expenditures from 1966 through 1974.
- # Regional cost ceiling calculations from 1972 through 1982.
- # The majority of adjustments made by BOR since 1996, which resulted in \$103.5 million of reported available cost ceiling.
- # The base date used by BOR to index the \$45.5 million cost ceiling increase authorized by Congress in 1988.
- # The base amounts used for indexing the \$355.9 million increase to Bonneville's cost ceiling authorized by Congress in 1972. Of this amount, Regional personnel allocated \$275 million to 11 individual plant accounts² and \$80.9 million to noncontract costs. Personnel, however, could not provide documentation to support the base amounts, and as such we had no assurance that

the proper base amounts were used when costs for the individual plant accounts were indexed.

(See Glossary for definition of noncontract costs and base date and base amount.)

²The \$275 million consisted of \$85.8 million for earth dams, \$44.4 million for tunnels, \$39.7 million for powerplants, \$30.6 million for concrete pipelines, \$26.3 million for canals, \$15.2 million for laterals and drains, \$13.3 million for primary roads, \$10.9 million for pumping plants, \$5.7 million for land and rights,

Agency Response

2. BOR Continued To Index Unbuilt Commercial Power And Agricultural Irrigation Features

The response did not comment on this issue.

BOR continued to index the unbuilt commercial power and agricultural irrigation features that BOR was not authorized to construct. In 1992, Congress precluded BOR from constructing any feature that was not included in the 1988 Definite Plan Report (*see Glossary*) for Bonneville. Because commercial power was not included in the 1988 Report, Congress, in effect, eliminated that feature. At the same time, Congress transferred the responsibility for constructing the remaining irrigation facilities from BOR to CUWCD.

BOR, however, continued to include Bonneville's unbuilt commercial power and agricultural irrigation features in its cost ceiling calculations and to index the amounts for inflation. These actions had the effect of increasing Bonneville's cost ceiling by about \$63 million. At the end of fiscal year 1999, the unexpended ceiling in the commercial powerplant accounts (powerplants and electrical switch yards and substations) had increased \$27.7 million (from \$135,937,000 as of October 1990 to \$163,652,000), and the unexpended ceiling in the irrigation plant accounts (canals, laterals and drains, and pumping plants) had increased \$35.2 million (from \$154,802,000 as of October 1990 to \$190,005,000).

During our review, Regional officials said they believed that using prior cost ceiling authorizations was appropriate even though individual project features, such as commercial power or agricultural irrigation for which there was remaining available ceiling, had been discontinued by subsequent legislation. Regional officials also said that it was BOR's policy to continue to index plant accounts until the project features were formally deauthorized by Congress.

A February 1976 report of the House of Representatives Committee on Government Operations, however, was critical of BOR's practice of continuing to index discontinued project features and related plant accounts for inflation (Report No. 98-852, "Bureau of Reclamation's Indexing Procedures Conceal Information That Water Resource Projects Are In Excess of Their Authorized Cost Ceilings"). The Committee recommended that indexing be stopped when the original estimate for an item (plant account) as indexed was exceeded by the expenditures or when the work on that item was completed. The Committee report stated that the recommended change was necessary "to help prevent the indexing process from increasing the authorized cost ceiling for factors not directly related to inflation." The Committee's recommendation was incorporated into BOR regulations, which state: "If the current plan and federal obligations do not include a portion of the authorized

Agency Response

3. BOR Did Not Record Expenditures of \$14.6 Million Against The Cost Ceiling

Agency Response

OIG Reply

History of Concerns About BOR Cost Ceiling Calculations

Other Issues Related to Bonneville Cost Ceiling Reliability

project intent, that portion must also be eliminated from the appropriation ceiling.”

The response did not address this issue.

BOR did not record expenditures of \$14.6 million against the \$214.4 million increase to Bonneville’s cost ceiling authorized by Congress in 1992. Although BOR and the CUPCA Office coordinated the administration of approximately \$28.9 million of fish and wildlife mitigation funds since 1994, BOR did not ensure that mitigation expenditures of \$14.6 million were included in the annual ceiling computations. Consequently, BOR’s reported ceiling available for appropriation was overstated by at least an additional \$14.6 million.

The comments agreed with our report finding that \$14.6 million received by the CUPCA Office had not been applied to Bonneville’s cost ceiling. The Program Director and BOR’s Commissioner stated that the actual appropriation amounts have now been accounted for by both the CUPCA Office and BOR and have been included in current cost ceiling computations.

The actions taken are sufficient to resolve this matter.

We also noted that similar concerns about the reliability of BOR’s cost ceiling calculations had been stated in independent GAO and Congressional reports over the last 25 years (see Appendix 3). In 1975, a GAO report questioned the reliability of BOR’s cost ceiling calculations. The February 1976 Congressional committee report cited BOR’s procedures as overstating project cost ceilings. Again in 1988 and 1992, Congressional committee reports cited the difficulty in obtaining reliable information on Bonneville’s costs and construction cost ceiling from BOR. Internal BOR reviews of Bonneville’s cost ceiling in 1994 and 1996 have also resulted in major adjustments to the ceiling that had the overall effect of significantly increasing the amount available for appropriation. For example, in 1994, BOR identified a shortfall of between \$2 million to \$19 million. After making significant adjustments, however, BOR reported an available cost ceiling of \$103.5 million in 1998.

During our review, we identified two other issues related to adjustments to BOR’s cost ceiling for Bonneville that deserve mention (see Appendix 4).

- # BOR increased Bonneville’s cost ceiling by \$62.4 million for general legislation costs (*see Glossary*) for road construction. While it is clear that BOR had the authority to expend funds for these roads, our research did not

**Agency Response and
OIG Reply**

Recommendation

Agency Response

OIG Reply

identify any authority for BOR to increase the authorized cost ceiling for this purpose.

- # BOR increased Bonneville's cost ceiling by \$67.6 million within the authority of Public Laws 100-563 and 102-575. We noted, however, that the increases were inconsistent with information that BOR provided to the Congress in support of the legislation.

The Acting Assistant Secretary's response to these issues and our reply are discussed in Appendix 4.

We recommend that the Program Director of the CUPCA Office not rely on BOR's cost ceiling calculation for the Bonneville Unit and discontinue using the ceiling amount as a basis for requesting additional appropriations. If the cost ceiling calculation is used as a basis for requesting additional appropriations, the Program Director should inform Congress as to the unreliability of the ceiling amount.

The Acting Assistant Secretary's response disagreed with the recommendation and stated that it was appropriate for the Department and the CUPCA Office to use BOR's cost ceiling calculation as a basis for requesting additional appropriations. The response further stated that the CUPCA Program Director would inform Congress of the "audit report's findings," along with the underlying disagreements of the CUPCA Office and BOR, and of Bonneville's construction cost ceiling analysis.

We continue to differ with the Assistant Secretary on the reliability of the cost ceiling and on the issues raised by our review. Further, we believe that Congress should be informed and make the final determination on whether the current cost ceiling should be used as a basis for additional appropriation. Therefore, we will refer the recommendation to the Assistant Secretary for Policy, Management and Budget for tracking as unresolved until Congressional action is taken on this issue (Appendix 8).

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Appendix 1

Scope of Review

Documents Reviewed

Our objective was to determine whether BOR calculated Bonneville's construction cost ceiling in accordance with applicable laws, legislative history, regulations, and BOR guidelines. To accomplish our objective, we reviewed Bonneville's definite plan reports; authorizing legislation and related legislative history; legal documents, such as Office of the Solicitor and Comptroller General opinions; BOR budget justifications; Reclamation Instructions; construction cost trend indices; and BOR cost ceiling calculations and applicable financial reports and accounting records.

Officials Interviewed

To obtain an understanding of and information on Bonneville's authorizing legislation and related legislative history, BOR's cost ceiling calculations and practices, Reclamation Instructions, and financial reports and accounting records, we interviewed officials from BOR's Upper Colorado Region in Salt Lake City, Utah, which calculates Bonneville's cost ceiling; BOR's Mid-Pacific Region in Sacramento, California; the Office of the Solicitor's Pacific Southwest Region Field Office in Salt Lake City; and the CUPCA Office in Provo, Utah. We conducted our fieldwork at BOR's Upper Colorado Region.

Government Auditing Standards

Our review was conducted in accordance with the Government Auditing Standards, issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary to accomplish our objective. The Standards require that we obtain sufficient, competent, and relevant evidence to afford a reasonable basis for our findings and conclusions.

As discussed in the Results of Review section of this report, BOR did not have sufficient evidence to support the historical amounts included in the cost ceiling calculation. (BOR's record-retention policy requires that accounting records and supporting documentation be retained for up to 6 years.)

Although maintaining all cost ceiling computation records and expenditure records over the life of Bonneville may not have been practical, sufficient records were needed for us to verify BOR's cost ceiling adjustments and satisfy the Standards. Because records were not retained, however, we did not have sufficient bases for relying on the amounts included in, or for evaluating internal controls over, the Region's cost ceiling calculation.

As part of our review, we reviewed the Departmental Reports on Accountability for fiscal years 1996 through 1998, which include information required by the Federal Managers' Financial Integrity Act, and BOR's annual assurance statements on management controls for fiscal years 1996 through 1998. Based on that review, we determined that none of the weaknesses reported for the Department and BOR were within the objective and scope of our review.

Prior Reports Related To Calculation of Authorized Construction Cost Ceilings

OIG Reports

1994 Report

Since 1975, the Office of Inspector General (OIG) and GAO have issued six reports related to cost ceilings. These reports are summarized in the following paragraphs.

The July 1994 report “Cost Increases Incurred on the Hoover Dam Visitor Facilities Program, Bureau of Reclamation” (No. 94-I-915), addressed factors that caused construction costs of visitor facilities to increase from \$32 million to a projected \$85.6 million. The report stated that the costs escalated because BOR did not adequately oversee or control the costs of the visitor facilities program. BOR based the original cost estimate on inadequate cost data and, after Congressional authorization, significantly increased the size and scope of the visitor center and parking facilities from the original design. In addition, although cost increases were reported in BOR’s annual budget justifications, the costs were not readily identifiable because of weaknesses in BOR’s budget control procedures, which effectively deferred reevaluation of the program by Departmental managers and Congress until the facility was substantially under construction. The report recommended that BOR revise Reclamation Instructions to ensure that individual appropriation ceilings were indexed for each project or program included within a multiproject or multiprogram authorization and were reported to Congress in annual budget justifications as the authorized spending limit for each project or program.

1988 Report

The February 1988 report “Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation” (No. 88-45), included the results of a review that addressed BOR’s procedures and practices for updating authorization ceilings. The report stated that in updating CRSP cost ceilings, BOR (1) aggregated the cost of individual projects, combining cost overruns on active projects with inactive projects where costs were below authorized ceilings, (2) indexed completed and deferred projects, and (3) included costs associated with general legislation. The report stated that these

	practices precluded Congress from reevaluating the benefits of two individual projects for which estimated costs were expected to exceed authorized ceilings by \$261 million and resulted in BOR's overstating total CRSP Project cost ceilings by \$388 million.
1987 Report	<p># The December 1987 report "Review of the Financial Status of the San Felipe Division, Central Valley Project, Bureau of Reclamation" (No. 88-18), included a review of the San Felipe Division's authorized cost ceiling. The report stated that the Division's cost ceiling included about \$26 million of unauthorized general legislation costs and \$13 million of unapproved "indexed" costs. The report stated that the Division's authorized ceiling was overstated by about \$39 million and that related estimated obligations of about \$38 million in excess of the Division's authorized ceiling were not reported to Congress.</p>
1986 Report	<p># The April 1986 report "Review of the Status of the Central Arizona Project, Bureau of Reclamation" (No. W-WS-BOR-08-85), addressed various matters related to the financial status of the Project, including an evaluation of the procedures used to index estimated Project costs. The report stated that BOR's computation of the Project's fiscal year 1986 appropriation ceiling included general legislation costs of about \$175 million that were unsupported or questionable. The report further stated that without these costs, the computed ceiling would be only about \$35 million greater than the estimated cost of the Project. The report recommended that BOR eliminate or exclude general legislation costs from all future ceiling computations unless the costs could be supported by verifiable data.</p>
GAO Reports	
1978 Report	<p># The July 1978 report "Improved Project Authorizations and Agency Practices Can Increase Congressional Control of Water Resources Projects" (No. CED-78-123) stated that Congress could increase its control over the development and funding of water resources projects by incorporating a two-phase planning and construction authorization process and requiring an authorization ceiling for all</p>

1975 Report

major projects. The report also stated that these controls would increase the opportunities of Congressional authorization committees to evaluate and review project planning and construction without impeding the progress of the project. In addition, the report stated that BOR and the U.S. Army Corps of Engineers needed to improve the accuracy and reliability of authorization ceiling and project cost information provided to Congress.

- # The November 1975 report “Bureau of Reclamation’s Procedures and Practices for Computing Authorized Cost Ceilings and Project Cost Estimates Need Improvement” (No. RED-76-49) addressed BOR’s procedures for updating authorized cost ceilings and cost estimates. The report stated that BOR procedures allowed costs not subject to inflation to increase the authorized cost ceiling and that the procedures did not specify how non-Federal expenditures were to be treated. The report also stated that BOR misapplied its procedures for indexing authorizations and cost estimates on three projects, one of which was Bonneville. The report concluded that BOR’s procedures and practices for computing cost ceilings needed to be improved to enable Congress to rely on the information provided in BOR’s budget justifications.

Appendix 3

History of Concerns About and Adjustments to BOR Cost Ceiling Calculations

1975 GAO Report

Since BOR was authorized to index the cost ceiling for Bonneville in 1972, GAO and Congress have expressed concerns on the accuracy and reliability of BOR's calculations. In addition, BOR itself has expressed concerns about the accuracy of the cost ceiling and made numerous adjustments to its calculations.

A November 1975 GAO report (No. RED-76-49—see Appendix 2) questioned the reliability of BOR's cost ceiling calculations and concluded that BOR's procedures and practices for computing cost ceilings needed to be improved to enable Congress to rely on the information provided in BOR's budget justifications.

Congressional Reports

1976 Report

The February 1976, House of Representatives Committee on Government Operations Report No. 94-852 ("Bureau of Reclamation's Indexing Procedures Conceal Information That Water Resource Projects Are in Excess of Their Authorized Cost Ceilings") presented the Committee's findings on three BOR projects, including Bonneville. The report stated that while Congress had provided BOR with latitude to adjust project cost ceilings to take inflation into account, BOR had "abused the discretion" given by Congress. According to the report, BOR's indexing procedures, such as continuing to index costs for completed work on Bonneville, had increased project cost ceilings for factors not directly related to inflation.

Of the 18 recommendations made in the report, 10 addressed revisions to BOR's cost indexing procedures. BOR issued Reclamation Instructions that conformed with the Committee's recommendations in August 1976 and revised the Instructions in February 1979 to reflect policy changes in procedures for computing cost ceilings. BOR rescinded all of its Reclamation Instructions in September 1995 in response to the Vice President's initiative to reinvent the Government. Although BOR developed a "draft" Reclamation Manual section in

1988 and 1992 Reports

1998 that addressed the calculation of cost ceilings, it continues to use the guidance provided in the February 1979 Instructions.

Since issuance of the 1976 Committee report, CRSP, in particular Bonneville, has continued to be the subject of much scrutiny by Congress. In 1988 and 1992, Congress expressed concerns over BOR's financial management practices, including BOR's inability to account for project costs and calculate project cost ceilings accurately. Specifically, House of Representatives Committee on Interior and Insular Affairs Report No. 100-915, dated September 1988, stated that BOR's cost figures for CRSP, which included costs of Bonneville, "have at times been inaccurate and inconsistent." In addition, Senate Committee on Energy and Natural Resources Report No. 102-267, dated March 1992, stated that the Committee had experienced difficulties "in obtaining accurate and reliable figures from the Bureau" for Bonneville.

BOR Reviews

1994 Review

In March 1994, the Regional Director of the Upper Colorado Region established a team to determine whether an increase in the ceiling was required to complete Bonneville. The team discovered errors in the ceiling computations, including the following:

- # Use of the incorrect base year for indexing costs,
- # Incorrect calculation of base amounts,
- # Application of Bonneville project costs to the incorrect fiscal year,
- # Not identifying "very large negative costs,"
- # Double counting costs.

The team also determined that BOR's cost estimate to complete Bonneville was not reliable. The team's July 1994 report stated that Bonneville's \$1.3 billion

1996 Review

cost ceiling needed to be increased by a range of approximately \$2 million to \$19 million to complete construction as planned.

In 1996, Regional officials again reviewed the methodology and assumptions used in previous calculations of Bonneville's cost ceiling. This review resulted in major adjustments that increased Bonneville's cost ceiling, including the following:

- # Eliminating negative account balances by transferring costs between accounts,
- # Eliminating preauthorization costs,
- # Revising construction cost indices, and
- # Adjusting general legislation costs.
(*See Glossary for definition of preauthorization and general legislation costs.*)

Adjustments made by BOR from 1996 to 1998 eliminated the \$2 million to \$19 million cost ceiling shortfall calculated in 1994 and resulted in a remaining available ceiling of \$103.5 million.

Appendix 4

**Issues Related to Bonneville Cost Ceiling Increases,
Comments by CUPCA Office Program
Director and BOR Commissioner, and OIG Reply**

**Cost Ceiling Increases
Related to Including
General Legislation
Costs In Calculations**

In its ceiling computation for 1998, BOR included \$62.4 million of general legislation costs, thereby increasing the authorized cost ceiling for Bonneville by that amount. The \$62.4 million represented the increased costs of constructing the roads around Bonneville's Jordanelle Dam to meet the higher State of Utah standards required after the legislation authorizing Bonneville was enacted. BOR computed the general legislation costs by comparing the original 1976 road construction cost estimate, indexed for inflation, with the updated 1985 road construction cost estimate to meet the higher standards. BOR determined that the 1976 estimate of \$15.8 million indexed through 1985 was \$30.9 million and that the 1985 estimate updated to accommodate the newer State standards was \$93.3 million. According to an Upper Colorado Regional official, the \$62.4 million difference was the maximum amount that could be considered general legislation costs.

During our review, Regional officials said that they included the \$62.4 million in the cost ceiling calculations because such costs were allowable under Reclamation Instructions. Part 151.5.7 of Reclamation Instructions, issued on February 6, 1979, states:

The current project cost estimate may include an amount to cover work which will be required as a result of general legislation. On projects where the price level date of the authorization estimate is prior to enactment of such legislation and/or any regulations resulting from such legislation, the appropriation ceiling can be increased to reflect costs included in the project cost estimate to accommodate the requirements of such legislation.

Although the 1979 Instructions allowed general legislation costs to be included in the cost ceiling calculation, events superseded these regulations. A February 1987 Comptroller General opinion stated

that general legislation costs should not be included without specific Congressional authority and that BOR's practice of including costs associated with general legislation enacted after a project's authorization had no statutory basis. In addition, a May 1990 letter from the Commissioner to the Assistant Secretary for Policy, Management and Budget stated that general legislation costs would not be included in any appropriation ceilings in the future "without specific authorization by Congress." The letter addressed the resolution of 1987 and 1988 OIG audit report recommendations regarding the treatment of general legislation costs (see Appendix 2).

During our review, a Regional official said she believed that Public Law 93-251 (33 U.S.C. § 701r-1), the Water Resources Development Act, which was referenced in Reclamation Instructions, allowed the cost ceiling to include the increased costs of constructing roads to higher standards. Another Regional official believed that the general legislation costs were properly included in the cost ceiling because the road construction costs were incurred prior to the Commissioner's 1990 letter, which officially changed BOR policy. The Regional official also stated that BOR interpreted the 1990 letter as meaning that no additional general legislation costs should be included in the cost ceiling after May 1990 without statutory authority.

Our Office of General Counsel disagreed that Title 33, United States Code, Section 701r-1, authorizes BOR to include increased costs associated with general legislation in the State of Utah for road construction. Section 701r-1 is applicable only "when the taking by the Federal Government of an existing public road necessitates replacement." In regards to Bonneville, BOR was building new roads.

The CUPCA Office Program Director and the BOR Commissioner disagreed with our conclusion that BOR "inappropriately included certain general legislation costs in the authorized cost ceiling." Their comments raised the following legal issues:

- # Whether Congress's appropriations for road construction for Bonneville permitted BOR to

Agency Response

OIG Reply

include the additional construction costs associated with general legislation into its cost ceiling calculations,

- # Whether the Comptroller General's opinion that general legislation costs cannot be used to increase the cost ceiling of a project can be superseded by a subsequent appropriations law, and
- # Whether the May 17, 1990 letter from the BOR Commissioner to the Assistant Secretary for Policy, Management and Budget permits general legislation costs that BOR incurred prior to May 1990 to be included in project cost ceilings.

The response stated that a Solicitor's opinion would be requested.

Our Office of General Counsel reviewed the Assistant Secretary's response and provided the following reply.

"BOR's reply states that it had authority to spend appropriated money "to construct roads to meet higher State of Utah standards which were required by the Federal Highway Administration after the legislation authorizing the Bonneville Unit was enacted." We agree that BOR had such authority. That, however, is not the issue raised by our report. The issue relevant to our finding is whether BOR had authority to include the increased construction costs associated with the newly enacted State legislation in its cost ceiling calculations for Bonneville. BOR did not address this issue, and our research revealed that BOR had no such authority.

"The Comptroller General issued an opinion in February 1987 concerning the appropriateness of including increased construction costs due to general legislation into cost ceiling calculations. The opinion stated that general legislation costs should not be included unless specifically authorized by Congress. The opinion criticized BOR's practice of including general legislation costs into its cost ceiling calculations because BOR has no statutory basis to do so. As the opinion suggests, Congress can pass legislation that permits BOR to include costs associated with general legislation into its cost ceiling

calculation. BOR, however, cited no such statutory authority for the Jordanelle Dam roads portion of Bonneville, and our research has found no such authority either.

“Finally, we disagree that the May 1990 letter from the BOR Commissioner to the Assistant Secretary for Policy, Management and Budget constituted an agreement between OIG and BOR concerning the inclusion of general legislation costs into BOR’s computation for cost ceilings. The ‘agreement’ to which BOR refers is not an agreement but rather BOR’s acceptance of our recommendation that general legislation costs cannot be used to increase any appropriation ceilings without specific authorization from Congress. Moreover, even if this were an agreement between OIG and BOR, BOR violated the agreement when it included the increased costs associated with general legislation in its recalculation of the available cost ceiling in 1998.”

On October 3, 2000, the Solicitor’s Office issued two memoranda related to this review. These opinions are still undergoing review by our Office of General Counsel.

**Cost Ceiling
Increases Related to
Public Law 100-563
(\$5,953,000)**

BOR increased Bonneville’s cost ceiling by \$67.6 million within the authority of Public Laws 100-563 and 102-575.

Public Law 100-563 provided BOR with \$45,456,000 “for the continued construction of the Colorado River Storage Project, and for the continued construction of the municipal and industrial water features of the Bonneville Unit.” (Emphasis added.) BOR’s request for the \$45,456,000 ceiling increase was included in an August 5, 1988 schedule provided to the House of Representatives Committee on Insular Affairs, which was incorporated into House Report No. 100-915.

The schedule showed that \$5,268,000 of the \$45,456,000 requested applied to features of CRSP (Jensen Unit, Modifications and Additions, Seedskaadee Fish and Wildlife, and Wayne N. Aspinall Fish and Wildlife) other than Bonneville. Public Law 100-563, however, did not specify the amounts authorized for specific project features,

Agency Response

including Bonneville, and BOR applied the entire \$45,456,000 to Bonneville's cost ceiling. The inclusion of the \$5,268,000 in the cost ceiling further increased the ceiling by \$685,000, for a total of \$5,953,000, because of the effects of indexing the amount to 1998. (We determined the \$685,000 by eliminating the \$5,268,000 from BOR's 1988 base amounts and recomputing the cost ceiling through fiscal year 1998.)

The comments agreed that when Public Law 100-563 was enacted in 1988, the increase of \$45,456,000 was to be used for continued construction of Bonneville (\$40,188,000) and other CRSP features (\$5,268,000). The comments stated, however, that BOR subsequently decided to use the entire \$45,456,000 for Bonneville and had informed Congress of this decision through correspondence to Congressional committees and inclusion of this information in BOR's budget justifications submitted to Congress. The comments also stated that Congress acknowledged and accepted the use of the \$45,456,000 as evidenced by Table 1 in Senate Report 102-267, which showed \$46,575,000 (\$45,456,000 indexed to 1990 prices) for Public Law 100-563.

OIG Reply

We reviewed 18 pages of correspondence and excerpts from budget justifications provided by BOR in March 2000 as evidence that it had informed Congress of its decision to use the \$5,268,000, originally authorized for other CRSP features, for Bonneville. In our opinion, the documentation was not sufficient to inform Congress of BOR's intent to use the full \$45,456,000. In enacting Public Law 100-563, Congress relied on information supplied by BOR in approving BOR's request for \$5,268,000 for other features of CRSP (Jensen Unit, Modifications and Additions, Seedsdskadee Fish and Wildlife, and Wayne N. Aspinall Fish and Wildlife). The \$5,268,000 amount, however, was not cited in the 18 pages of documentation, nor could we find any evidence in the

**Cost Ceiling
Increases Related to
Public Law 102-575
(\$61,649,000)**

documentation that Congress “acknowledged and accepted” the use of the \$45,456,000 solely for Bonneville.

In addition, it would have been difficult to have acknowledged and accepted the amount in Table 1 of Senate Report 102-267 because (1) all the numerical information contained in the table had been generated and provided by BOR, (2) BOR reported a different amount for Public Law 100-563 (\$46,575,000) than that originally authorized by Congress (\$45,456,000), and (3) BOR’s indexing formulas to reconstruct the basis for the amounts in the table were complicated.

Public Law 102-575 authorized an increase of \$214,352,000 for BOR to complete its portion of Bonneville. The \$214,352,000 was based on a schedule BOR provided to the Senate Committee on Energy and Natural Resources, which the Committee incorporated into Senate Report No. 102-267. Based on Table 1 of the Senate Report (see Appendix 5), the \$214,351,414 (rounded to \$214,352,000) consisted of:

- # \$49,111,000 to cover a ceiling shortfall under Public Laws 84-485 and 92-370, which represented the amount by which cumulative Congressional appropriations exceeded Bonneville’s authorized cost ceilings (appropriations of \$1,084,020,000 minus the reported ceiling of \$1,034,909,000) (see Appendix 6) and
- # A balance of \$165,241,000 to complete BOR’s portion of Bonneville.

BOR, however, included the entire \$214,352,000 in the cost ceiling and in doing so, realized an unintended ceiling increase consisting of the \$49,111,000 cost ceiling shortfall. During our review, Regional officials said that they believed the language in Public Law 102-575 was “clear” from a

legal standpoint in that the \$214,352,000 could be spent for the features identified in the Senate Report and that the entire amount should be included in the cost ceiling and subject to indexing. Their position was based on an October 22, 1998 opinion from the Office of the Solicitor's Pacific Southwest Region, which stated, in part, that the Secretary was authorized to "obligate and expend" the \$214,352,000 to pay for features contained in the Senate Report and that the \$214,352,000 could be indexed.

Regional officials stated that the cost information used in the Senate Report to determine the \$49,111,000 ceiling shortfall was later believed to be inaccurate and had been developed in "only about 30 minutes" because of the limited time frame permitted during passage of Public Law 102-575. The officials could not reconstruct the records to support the basis for the cost information, but stated that they had not advised Congress that they thought the 1992 cost information was incorrect.

The inclusion of the \$49,111,000 in Bonneville's computation further increased the cost ceiling by \$12,538,000, for a total of \$61,649,000, because of the effects of indexing the amount to 1998. (We determined the \$12,538,000 by eliminating the \$49,111,000 from BOR's 1991 base amounts and recomputing the cost ceiling through fiscal year 1998.)

While we agree that Public Law 102-575 does not preclude BOR from indexing the entire \$214,352,000, we believe that by indexing the entire amount, BOR calculated Bonneville's authorized cost ceiling at \$49,111,000 more than the amount BOR told the Congress it needed to complete its portion of Bonneville. We also believe that the Committee sought to ensure that BOR applied the increase in accordance with the Senate Report by stipulating in Public Law 102-575 that the \$214,352,000 be

Agency Response

expended “for the features identified in the Report of the Senate Committee on Energy and Natural Resources [Senate Report No. 102-267] accompanying the bill H.R. 429.” We believe that BOR should have computed the cost ceiling in accordance with the information provided to and subsequently used by Congress to increase Bonneville’s authorization or obtained further clarification of the Senate Report from the appropriate Congressional committee.

The comments from the CUPCA Office Program Director and BOR Commissioner stated, “We disagree with the IG’s legal interpretation of the statute regarding the application of the \$49,111,000 and its relationship to the \$214,352,000 authorized in Public Law 102-575. Our interpretation is that the entire \$214,352,000 is for specific features as described in the Senate Report.” The comments also interpreted our report as concluding that “when a statute appropriates funds that exceed amounts found in the authorizing statutes, a ceiling shortfall exists that requires additional statutory authority to correct.” The comments disagreed with this conclusion and stated that a Solicitor’s opinion would be requested on this issue on or before August 1, 2000.

OIG Reply

We did not assert that additional statutory action was needed to correct a ceiling shortfall when project appropriations exceeded project statutory authorization. Further, we agree from a legal standpoint that Public Law 102-575 allowed BOR to index the entire \$214,352,000, which included the \$49,111,000 ceiling shortfall. We believe, however, that BOR should have computed the cost ceiling in accordance with the information provided to and subsequently relied upon by Congress to increase Bonneville’s authorization. In that regard, BOR provided information to Congress in Table 1 of Senate Report 102-267 that BOR needed only \$165,241,000 to complete the features specified in Table 1, but

Appendix 4

indexed the entire \$214,352,000 after passage of Public Law 102-575 without informing the appropriate Congressional committee. It is worth noting that BOR identified the \$49,111,000 amount as the ceiling shortfall (project appropriations exceeding authorizations) in Senate Report 102-267, not as the amount needed to complete “specific features.”

Appendix 5

Excerpt from Senate Report No. 102-267

Table 1 - Bonneville Unit Cost Ceiling Tabulation

Indexed Ceiling Public Laws 84-485 and 92-370	\$1,034,908,840	
Appropriated through October, 1990	<u>1,084,020,074</u>	
Balance Available	(\$49,111,234)	[Ceiling Shortfall]
 FY 1991 section 5 [Construction Appropriation]	79,823,000	
FY 1991 section 8	<u>15,548,000</u>	
[Fish, Wildlife and Recreation Appropriation]		
Balance Available	(\$144,482,234)	
 Currant Creek Road	150,000	
Soldier Creek	2,986,000	
Taylor Canal Drains	293,037	
Jordanelle Dam	21,446,000	
Upper Provo River Improvements	8,044,501	
Syar Tunnel	531,000	
Sixth Water Aqueduct	32,610,514	
Starvation Recreation Facilities	673,433	
Jordanelle Recreation Facilities	17,646,695	
Mitigation Measures	<u>32,063,000</u>	
Balance Available	(\$260,926,414)	
 Added Ceiling From Public Law 100-563	<u>46,575,000</u>	
 Balance Available	<u>(\$214,351,414)</u>	

Appendix 6

**Computations of Cost Ceiling Under
Public Laws 84-485 and 92-370 as of October 30, 1990**

Plant Accounts	Computed Cost Ceiling (In Thousands)
Irrigation and Drainage System:	
Canals	\$77,030
Laterals and Drains	43,434
Pumping Plants	34,796
Subtotal	<u>\$155,260</u>
Power System	
Powerplants	126,002
Switchyards and Substations	5,700
Subtotal	<u>131,702</u>
Other Accounts:	
Land and Rights	\$13,899
Earth Dams	203,096
Tunnels	88,106
Concrete Pipelines	76,502
General Property	(1,193)
Primary Roads	35,821
Subtotal	<u>\$416,231</u>
Total	<u>\$703,193</u>
Noncontract Costs	\$206,854
Preauthorization Costs	\$64,465
Recreation and Fish and Wildlife	\$60,397
Subtotal	<u>\$331,716</u>
Total	<u>\$1,034,909</u>
Less: Appropriations	<u>1,084,020</u>
Appropriations in Excess of Authorized Cost Ceiling	<u><u>(\$49,111)</u></u>



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 21 2000

MEMORANDUM

To: Office of Inspector General
Attention: Acting Assistant Inspector General for Audits

From: Mary Doyle *Mary Doyle*
Acting Assistant Secretary - Water and Science

Subject: Draft Audit Report on "Bureau of Reclamation Calculation of the Authorized Construction Cost Ceiling for the Bonneville Unit, Central Arizona Project" (Assignment No. W-IN-BOR-002-99)

We have reviewed the subject Draft Audit Report (Report) and offer the following comments in response to the Report's recommendation and findings. In summary, we have concluded that it is appropriate for the Central Utah Project Completion Act (CUPCA) Office to use the Bureau of Reclamation (Reclamation) cost ceiling calculations for the Bonneville Unit as a basis for requesting additional appropriations. Therefore, prior to October 1, 2000, the Program Director will inform the Congress of the following: (1) the Audit Report's findings, along with our underlying disagreements; (2) Reclamation's Bonneville Unit construction cost ceiling analysis; and (3) the Department's intent to continue to use Reclamation cost ceiling calculations as a basis for requesting appropriations to complete the Central Utah Project.

Further, we continue to disagree with several of the specific findings contained in the Report. In particular, the RESULTS OF AUDIT section raises four issues that we believe require further discussion. Two of those we consider to be resolved. The remaining two have Department-wide implications and we are seeking resolution of those. These four issues are addressed in the attachment.

If you have any questions, please contact Mr. Ron Johnston, Program Director, Central Utah Project Completion Act Office at (801) 379-1103.

Attachment



United States Department of the Interior

BUREAU OF RECLAMATION
Washington, D.C. 20240



JUL 10 2000

MEMORANDUM

To: Mary Doyle
Acting Assistant Secretary, Water and Science

From: Eluid Martinez
Commissioner, Bureau of Reclamation

Ronald Johnston
Program Director, Central Utah Project Completion Act Office

Subject: Draft Audit Report on "Bureau of Reclamation Calculation of the Authorized Construction Cost Ceiling for the Bonneville Unit, Central Utah Project"
(Assignment No. W-IN-BOR-002-99-R)

The purpose of this memorandum is to offer our comments on the findings of the subject Draft Audit Report. We continue to disagree with several of the specific findings contained in the Report. We consider two of these issues to be Reclamation-specific, and as explained below, we consider them resolved. The remaining two, however, have Department-wide implications, and we will request a Solicitor's opinion on both.

1. Use of Appropriations for Bonneville Unit

The Draft Audit Report concludes that the Bonneville Unit cost ceiling from Public Law 100-563 was overstated by the amounts initially identified for other units of the Central Utah Project. We concur that when Public Law 100-563 was passed in 1988, the increase of \$45,456,000 was to be used for two purposes: (1) construction of features in the Bonneville Unit; and (2) for other Colorado River Storage Project purposes.

Subsequently, Reclamation decided to use the entire \$45,456,000 for construction of the Bonneville Unit. Reclamation informed the Congress of this decision through correspondence to congressional committees and by including this information in Reclamation's Budget Justifications submitted to the Congress. Consistent with the budget requests, Congress included the full amount requested in fiscal years 1989-1992 appropriations for the Bonneville Unit.

The cost ceiling tabulation for the Bonneville Unit which was used in support of the Central Utah Project Completion Act (CUPCA) clearly shows that Congress acknowledged and accepted the use of the \$45,456,000 solely for the Bonneville Unit. Congress passed Public Law 102-575 in 1992, which included the authorization of CUPCA. Senate Report 102-267, which accompanied

the bill that became Public Law 102-575, includes Table 1 on page 100 titled *Bonneville Unit*, cost ceiling tabulation. Table 1 shows \$46,575,000 (indexed to 1990 prices) as added ceiling from Public Law 100-563.

Therefore, it is appropriate to include the full amount of the ceiling authorized in Public Law 100-563 in the base amounts (subject to indexing), and we consider this matter resolved.

2. Cost Ceiling Shortfalls

When CUPCA was enacted, it increased the cost ceiling available for construction of the Central Utah Project by \$214,352,000. The IG has interpreted Section 201(a)(1) of CUPCA such that \$49,111,000 of the \$214,352,000 increased construction cost ceiling that was made available to Reclamation was to eliminate cost ceiling shortfalls under the two prior authorizations, rather than to increase the ceiling for the features identified in Senate Report 102-267. We disagree with the IG's legal interpretation of the statute regarding the application of the \$49,111,000 and its relationship to the \$214,352,000 authorized in Public Law 102-575. Our interpretation is that the entire \$214,352,000 is for specific features as described in the Senate Report.

The Draft Audit Report states, "However, instead of applying the \$49,111,000 to eliminate the cost ceiling shortfall under the two prior authorizations and indexing the balance of \$165,241,000 to complete WBR's portion of the Unit, WBR included the entire \$214,352,000 in the cost ceiling established under Public Law 102-575 and made the entire amount subject to indexing." In other words, the Draft Audit Report adopts the position that funds actually appropriated in appropriations statutes cannot exceed the dollar amounts contained in the authorizing legislation.

We believe that the prior appropriations identified in the Senate Report, including the \$49,111,000, had actually been appropriated by statute. The Draft Audit Report's position is incorrect because Section 201(a)(1) of CUPCA specifically ties the increased authorized ceiling of \$924,206,000 to specific projects and programs, and there were no "unauthorized" appropriations to offset. It would be a clear violation of provisions of the statute to take the increased authorized ceiling and apply it to a purported authorization deficit when the law itself provides that the only purpose for the increased ceiling is for specified features. Therefore, the entire \$214,352,000 is available to complete the specific features identified in the Senate Report and to be included in the ceiling computations.

We disagree with the Draft Audit Report's conclusion that when a statute appropriates funds that exceed amounts found in the authorizing statutes, a ceiling shortfall exists that requires additional statutory action to correct. We will request a Solicitor's opinion on this issue on or before August 1, 2000.

3. Indexing for General Legislation

The Draft Audit Report concludes that Reclamation inappropriately included certain general legislation costs in the authorized cost ceiling for the Bonneville Unit that increased the ceiling by \$62,461,000. This amount represents the increased costs to construct roads to meet higher State of Utah standards which were required by the Federal Highway Administration after the legislation authorizing the Bonneville Unit was enacted. The issue is whether appropriations which were enacted by Congress to cover these increased costs due to general legislation were actually outside a congressional authorization and whether that requires the Congress to increase the project authorization to cover those appropriations.

The Draft Audit Report cites a Comptroller opinion which states that increasing the ceiling by general legislation has no statutory basis. The Draft Audit Report states, "...the Comptroller General's opinion countermands BOR's internal operating procedures, such as the Reclamation Instructions and the Commissioner's 1990 letter."

The Draft Audit Report implies that the opinions issued by the IG or the Comptroller General are binding on congressional actions reflected in appropriation statutes. The conclusion of the Comptroller General that there was no authorization to increase the ceiling to cover costs required by general legislation must be considered in light of the guidance from the Comptroller General's Office of General Counsel that, "An authorization act is basically a directive to the Congress itself which Congress is free to follow or alter (up or down) in the subsequent appropriation act." Id. at 2-35. Therefore, when the Congress appropriated funds that included increased costs due to general legislation, Reclamation was legally correct in spending those funds.

Reclamation believes that this issue concerning general legislation was previously resolved following the Department's procedures for resolving disagreements between the IG and a bureau. Under this resolution, Reclamation agreed that for computing cost ceilings, all general legislation costs incurred prior to May 17, 1990, would be included. Since all the general legislation costs addressed in the Draft Audit Report were appropriated and expended before May 1990, the IG's findings do not appear to be consistent with the earlier resolution of this issue. On or before August 1, 2000, we will request a Solicitor's opinion on the issue of general legislation.

Further the position taken by the IG on the issue of "unauthorized" appropriations is a rather serious one which could have national implications to the Department beyond the Bonneville Unit authorized ceiling computations. There are many instances where agencies received authorization, the authorization expired, and Congress continued to appropriate funds for these activities. In these instances, appropriations statutes are regarded as authorization for these funds, and the various agencies have expended, and continue to expend, these appropriations.

4. Appropriations Applied Against Cost Ceiling

The Draft Audit Report indicates that appropriations in the amount of \$14,604,000 were received by the CUPCA Office and were not recorded in the Reclamation accounts against the \$214,352,000 increased construction cost ceiling. The actual appropriation amounts have now been accounted for by both the CUPCA Office and Reclamation and have been included in the current construction cost ceiling computations. Therefore, we consider this issue resolved.

If you have any questions, please contact Mr. Ron Johnston, Program Director, Central Utah Project Completion Act Office at (801) 379-1103.

Appendix 8
Status of Audit Recommendation

Recommendation	Status	Action Required
1	Unresolved	Referred to Assistant Secretary for Policy, Management and Budget for resolution to be tracked as unresolved until Congressional action is taken on this issue.



MISSION STATEMENT

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