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2007 Interim Guidelines SEIS Project Manager
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Dear Ms. Johnson,

The Imperial Irrigation District (IID) respectfully submits these scoping comments regarding the Bureau of Reclamation's Notice of Intent to Prepare a Supplemental Environmental Impact Statement (SEIS) for the December 2007 Record of Decision Entitled *Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead* (2007 Interim Guidelines), published on November 17, 2022, in the Federal Register (87 FR 69042-69045).

IID appreciates this opportunity to provide input to the Bureau of Reclamation (Reclamation) as it seeks to modify the 2007 Interim Guidelines to respond to the Colorado River hydrology and declining water elevation levels in Lakes Powell and Mead resulting from a number of factors, including the prolonged drought and low runoff conditions accelerated by climate change. IID recognizes the severity of the situation and the difficult task before Reclamation. These comments are intended to be constructive and informative to Reclamation in the identification and analysis of alternatives to include in the SEIS prior to making significant and expeditious decisions to protect the Colorado River system and the interests of the millions of people relying on this water supply.

The NOI has specifically identified Reclamation's intention to modify the 2007 Interim Guidelines in three areas: (1) Lake Mead shortage conditions to decrease the quantity of water apportioned to the Lower Basin states (Section 2.D), (2) Glen Canyon Dam reservoir release schedules and coordinated operations to modify and/or reduce the quantity of water released (Sections 6.C and 6.D), and (3) the mid-year review process for reduced deliveries from Lake Mead (Section 7.C). The near-term response actions under development by Reclamation are not intended to replace the post-2026 planning efforts being conducted as a separate process, but to address near-term unacceptable operational risks to Glen Canyon and Hoover Dams as a result of low runoff conditions anticipated for the upcoming 2023 and 2024 operational years.

Background information and context are imperative to identifying the alternatives that provide meaningful and timely paths forward. IID is the sole regional raw water supplier for the Imperial

Valley. Unlike most Colorado River water users that have access to other water supply sources, IID's only water supply is the River. This rural community consists of approximately 180,000 residents that comprise largely disadvantaged communities, with an annual per capita income of only slightly above \$18,000. Nevertheless, Imperial Valley is a prime agricultural region in California consisting of nearly 500,000 acres of highly productive agricultural land with year-round sunshine critical to providing perennial food supplies for the nation. This is especially important during times of international conflict and other instabilities affecting food supply chains and consumer prices. Since its inception in 1911, IID has supported its community's critical national agricultural production role by delivering its Colorado River supplies to Imperial Valley growers, who helped to establish IID's beneficial use of the River for many years before that.

The substantial volatility of annual Colorado River flows, episodic floods and droughts, including sustained and severe drought, and the difficulty of stakeholders to address sharing the River have been well documented historically. It is for these reasons, in part, that the Glen Canyon and Hoover Dams were built along with other River infrastructure, and also why a responsive hierarchy of priority for use and users was established in the foundational agreements and laws upon which the Law of the River was built. Moreover, the Law of the River has repeatedly resulted in difficult, but collaborative efforts to develop additional tools and mechanisms to work within its framework to address and respond to various needs and challenging situations. This is similar to what Reclamation and Colorado River water users face now, albeit on a greater scale. The 2007 Interim Guidelines are a prime example of such collaborative efforts. While Reclamation will receive proposals citing the severity of the current situation as the basis to significantly modify or set aside certain agreements and laws through modifications of the 2007 Interim Guidelines, Reclamation must consider what modifications are feasible to impose and implement, will accomplish an expeditious approach to address immediate efforts to revise Glen Canyon and Hoover Dams operations in 2023 and 2024 (and potentially 2025 and 2026), and provide a foundation for further collaborative efforts, rather than set the stage for adversarial litigious approaches going forward.

Reclamation is soliciting comments for the scope of the SEIS and has initially identified the following three primary alternatives: the No Action Alternative, the Framework Agreement Alternative (based on a consensus-based set of actions) and the Reservoir Operations Modification Alternative (federal regulatory actions or some combination of voluntary and regulatory actions). While IID is actively involved in ongoing discussions within California and the Basin States to develop a consensus approach, to date this approach remains elusive. IID offers these scoping comments for consideration in the SEIS as Reclamation develops a Proposed Action to modify the 2007 Interim Guidelines:

- Any Proposed Action must adhere to the Law of the River to result in an implementable path forward that allows expeditious operational decisions and actions by Reclamation in 2023 and 2024, and likely extending into 2025 and 2026. This prerequisite is illustrated in all scoping comments that refer to certain laws and agreements that various stakeholders and agencies are requesting be adhered to in the development of the SEIS and the modifications to the 2007 Interim Guidelines. Failure to utilize over a century of

laws and agreements developed as the foundation to address this very situation creates instability and an unpredictable future. Reclamation cannot modify or set aside the Law of the River without having broad and far-reaching impacts that would not only need to be addressed in the SEIS, but would require far more than modifications to the 2007 Interim Guidelines. The SEIS should analyze the implementation of not only the 2007 Interim Guidelines and the 2019 Colorado River Drought Contingency Plan Authorization Act (Pub. L. 116-14) (2019 DCP Act), but also the 1922 Colorado River Compact, 1928 Boulder Canyon Project Act (BCPA), water delivery contracts under Section 5 of the BCPA, the 1968 Colorado River Basin Project Act, the 2003 Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement (FQSA), and the 2006 Consolidated Decree in *Arizona v. California*.

- Any Proposed Action cannot be based on modeling that uses unvetted assumptions with little or no analysis or input from impacted agencies and stakeholders and/or mass balance modeling that arbitrarily apportions reductions in deliveries based on various “equitable” or “proportional” determinations, disregarding all other factors that would inform an implementable approach. While such proposed alternatives may identify a logical basis for their assumptions and determinations, if the approach is not constructive, reasonable and implementable due to other factors they should not be considered or included.
- Basin-wide problems require basin-wide solutions. While IID appreciates that the Upper Basin States operate without the benefit of a reservoir system upstream of certain users and may not have fully developed their water uses, all water users must be a part of any actions to protect the Colorado River even if it largely consists of not exacerbating the supply-demand imbalance with new demands on the River system. Conservation, recycling and reuse along with intrastate and regional partnerships have demonstrated that urban growth can occur without increasing water demands. This includes binational cooperation and water conservation actions/demand reductions from Mexico, who have been supportive partners throughout the current drought with Minutes Nos. 319 and 323. Given the intractability of the last two decades of low inflow patterns, both United States and Mexico water users must be part of any Proposed Action by Reclamation identified in the SEIS.
- Impacts to the Salton Sea must be considered in the SEIS to quantify the environmental and public health impacts resulting from any Proposed Action identified in the SEIS that directly or indirectly affects the Sea, this critical basin resource. Reclamation must recognize that as the largest landowner at the Salton Sea, the impacts to and responsibility of federal agencies for this resource will increase and must be addressed.
- Impacts on rural communities must be specifically identified and analyzed in the SEIS to ensure that the long-standing disenfranchisement of these smaller agricultural communities and/or economically disadvantaged communities, often caused by pressuring the movement of local water supplies to wealthy and more populous (but resource poor) areas, is not perpetuated. Disadvantaged communities, including

Imperial Valley, should not bear disproportionate impacts from a federally Proposed Action identified in the SEIS targeting these water supplies. Historically (and inappropriately) these communities have been referred to as “agricultural reservoirs”, and they should not be the basis for any Reclamation Proposed Action.

- The Proposed Action identified in the SEIS should not operationally favor Lake Powell at the expense of Lake Mead. Reclamation must develop a measured, coordinated approach building off of the 2007 Interim Guidelines. However, if water supply conditions decline to a point where only one reservoir is viable – Lake Mead must be prioritized given its role in water delivery operations serving Arizona, Nevada, California and Mexico. Additionally, an adaptive management approach must be incorporated into any Proposed Action by Reclamation based on the hydrology to ensure reservoir water storage capacity is rebuilt, but with some flexibility to adjust as inflow conditions ebb and flow. IID recognizes the significance of the situation and that the sustained drought impact on the Colorado River is of international, national, regional and local importance. IID also recognizes that the hydrologic conditions of the River may not fluctuate significantly in the near-term. Nevertheless, a sustainable and implementable approach, must be adaptive and responsive to changing conditions.
- IID believes that a consensus alternative is or should be the active goal of all Basin States, tribal water users and other stakeholders. In the event that such a consensus alternative cannot be developed, Reclamation’s Proposed Action should include and allow for voluntary water conservation actions that provide system benefits and avoid protracted litigation. Voluntary water conservation actions, particularly from senior priority water users such as IID, funded by federal resources including the Inflation Reduction Act can provide significant, reliable and measurable elevation building benefits for the River system. Voluntary water conservation has been dismissed as unreliable and not capable of resulting in significant volumes of conserved water. However, pursuant to the Quantification Settlement Agreement (QSA), IID has implemented water conservation programs for 20 years resulting in over 7.2 million acre-feet of conservation and is currently conserving approximately 500,000 acre-feet of water annually. The QSA cannot and should not be disregarded because it was initiated 20 years ago. Significant voluntary water conservation could be accomplished in other areas. Reclamation has identified the immediate need for changes to River operations as early as 2023. With such a pressing timeline, all voluntary water conservation proposals must be pursued and addressed in the SEIS.
- While a consensus alternative must be identified soon to be analyzed as such in the SEIS, the SEIS should not preclude further coordination, collaboration, or negotiations.

Reclamation specifically requested input on how human health and safety considerations can be more expressly integrated into Colorado River operational decision-making. IID agrees that human health and safety must be addressed in operational decision-making. However, contrary to the perspectives of large urban areas that have been complicit in allowing growth to exceed their agencies’ water supplies, IID encourages Reclamation to recognize that human

health and safety can and should be addressed within each Basin State in accordance with the laws and priorities within that state. The priority system was not designed to be implemented after certain water demands are “carved out,” nor are such actions necessary despite the advocacy for such approaches by junior water rights holders seeking this opportunity to circumvent existing laws and agreements that already contemplate and address such needs. Reclamation’s role to ensure human health and safety should be expressly addressed within operational decision-making only when and to the extent that a population’s only supply of water is Colorado River water, such supply will be reduced under the priority system within that state such that human health and safety needs cannot be met and Reclamation is responsible for conveying that water to that population. Otherwise, the applicable laws, agreements and priority system within that state can and should be implemented as intended.

IID recognizes that if human health and safety needs are addressed within each state, according to its existing laws, agreements and priority system, certain voluntary partnerships and/or arrangements may need to be forged with other water users within that state and/or using other water supplies to meet those needs. If necessary, a strong state and/or federal presence can be used to help broker these negotiations. Such partnerships and/or arrangement which can be made may also involve alternative water supplies and resource options such as groundwater, stormwater recapture, desalination and reuse opportunities, as well as conservation options and transfer programs. Other water supply sources and these types of operational and supply mechanisms must be a part of the calculus when quantifying human health and safety needs. Such an approach can be done within the Law of the River and are not unusual in California, having developed regional, intrastate, interstate, and federal partnerships and collaborative efforts such as Pure Water Southern California, the Quantification Settlement Agreement, and the Poseidon Water Regional Recycled Water Program, just to name a few.

IID and its water users also encourage Reclamation to identify what comprises the human health and safety category – we feel strongly that critical health infrastructure considerations should include agricultural production and food safety. While drinking water, fire safety and sanitation needs often claim top priority – a food supply crisis would quickly correct that misperception. There is absolutely no doubt that highly productive agricultural regions are critical links in the nation’s food supply chain and should be given due consideration in public health determinations. Recent world events have shown how fragile a nation can be if it has to import its food supply, and larger scale agricultural operations cannot simply be turned on and off like a spigot. Additionally, communities with no alternative water supplies or options that are solely dependent on the Colorado River due to their rural location and limited economic diversity must be given special consideration.

Should demand reductions necessitate health and human safety water considerations – the areas implementing emergency rules for this type of allocation must also be required to suspend all new project authorizations that require additional water supplies. Regions supplied by junior priority water users without adequate drought-proof reliability simply cannot be allowed to continue a pattern of unsustainable growth that increases water demands in the face of this level of hydrologic crisis.

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Finally, given the critical situation and that Reclamation is seeking input to address human health and safety, it is incumbent on Reclamation to take all actions already agreed upon to address the worsening Colorado River conditions. Therefore, as soon as possible, Reclamation must take all steps necessary within the Lower Basin states and Mexico to implement the most aggressive shortage measures currently authorized to add 1,375,000 acre-feet to the system, more than 650,000 AFY above the 2023 contribution level of 721,000 AFY. This would include the maximum shortage reductions under the existing 2007 Interim Guidelines (500,000 AFY), the highest level of 2019 DCP Act contributions (600,000 AFY), and the full 275,000 AFY of Mexico's Minute No. 323 and Binational Water Scarcity Contingency Plan. In addition, the Upper Basin should suspend all plans to develop additional water supply diversion projects and maximize Drought Response Operations Agreement releases while accelerating and fully accomplishing its conservation efforts to generate verified and stored water.

IID appreciates the opportunity to provide these scoping comments, and encourages Reclamation and the Department of Interior to pursue implementable and expeditious actions to protect the Colorado River system. IID looks forward to continued engagement in the SEIS process and will continue to work with Reclamation to develop its voluntary drought protection plan proposal. IID is committed to continuing to work with any of our partners and stakeholders on the River to develop collaborative solutions that can be expeditiously implemented to stabilize the reservoirs and provide water supply reliability for its community and water users.

Sincerely,

A handwritten signature in black ink that reads "Tina Shields". The signature is written in a cursive, flowing style.

Tina Shields, PE

Manager, Water Department