



December 20, 2022

Via Electronic Mail

Reclamation 2007 Interim Guidelines SEIS Project Manager
U.S. Bureau of Reclamation
Upper Colorado Basin Region
125 South State Street, Suite 8100
Salt Lake City, Utah 84138

To Whom It May Concern:

The purpose of this letter is to provide the U.S. Bureau of Reclamation (Reclamation) with the comments of the technical staff of the Colorado River Board of California¹ (Board) associated with the November 17, 2022 *Federal Register* Notice (87 FR 69042-69045) regarding the Notice of Intent (NOI) to Prepare a Supplemental Environmental Impact Statement (SEIS) for the December 2007 Record of Decision (ROD) entitled Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines). The comments provided below were developed in coordination and consultation with the California agencies represented on the Board and are generally focused on Reclamation's evaluation of potential modifications to Sections 2 and 6 (Lake Mead and Lake Powell operations, respectively) of the 2007 Interim Guidelines ROD.

Board staff appreciate Reclamation's on-going efforts to chart a path forward for the Colorado River Basin, which is facing unprecedented low water supply conditions. The current challenge will require both a short-term effort of extraordinary water use reductions as well as longer-term adjustments to water use and expectations in acknowledgement of climate-change impacts, particularly aridification, that have been observed across the Basin in recent decades. This effort cannot be achieved by one state, basin, or water user in isolation, and we ask for the Reclamation's continued commitment, in the proposed SEIS and parallel efforts, to ensuring that all Basin water users meet their obligations and equitably contribute to the solutions that meet these challenges.

As Reclamation is aware, on December 13, 2022, California's water users committed to work closely with representatives of the seven Basin states and other stakeholders across the Basin

¹Established in 1937, the Board protects the interests and rights of the agencies and citizens of the State of California to the water and power resources of the Colorado River System. The ten-person Colorado River Board is comprised of representatives from the Coachella Valley Water District, Imperial Irrigation District, Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, Palo Verde Irrigation District, San Diego County Water Authority, California Department of Water Resources, California Department of Fish and Wildlife, and members of the public.

with the goal of developing a consensus-based “Framework Alternative” before the end of January 2023 that can be considered in the SEIS process. Whether this proposal materializes or not, there are several key factors that the Board’s technical staff believe should be considered and evaluated in the draft SEIS.

First, deliveries from the Upper Basin to the Lower Basin from Glen Canyon Dam are critical in determining water available for uses in both the Upper and Lower Basins. While Board staff understands the need to evaluate a wide range of potential releases from Glen Canyon Dam in preparation for extraordinary circumstances, we are deeply concerned about the potential cascading negative impacts to storage in Lake Mead if annual releases from Glen Canyon Dam are reduced below 7.0 million acre-feet (MAF), as highlighted in Reclamation’s SEIS scoping meeting presentations on November 29th and December 2nd. Reclamation should consider the operation of Glen Canyon Dam in the context of compliance with the 1922 Colorado River Compact, which establishes delivery obligations in Article III(c), III(d), and III(e). Meeting the terms of the Compact was one of the primary purposes for which Glen Canyon Dam was constructed. If upstream efforts, both administrative and operational, are insufficient to meet these obligations while preserving the integrity of the facility’s infrastructure, Reclamation should ensure that Glen Canyon Dam is able to safely and reliably operate below elevation 3,490’. Glen Canyon Dam releases below certain thresholds (i.e., 82.3 or 75 MAF over the running ten years) and annual releases less than 7.0 MAF should be regarded as a last resort only employed when all other options have been exhausted.

Secondly, in the Lower Basin, considerable attention has been paid to how water should be allocated when supply is insufficient. Many pieces of the Law of the River, the collection of laws, agreements, and policies that dictate how the Colorado River Basin’s water users and facilities operate, were developed with the express purpose of providing the Secretary with specific direction for how the Basin should be managed in times of insufficient water supply or low runoff. To discard or undermine these measures the first time they are needed risks destabilizing the entire structure of the Law of the River. The Secretary’s implementation of shortage in the Lower Basin should be guided by the Law of the River and consistent with existing commitments.

Nevertheless, the Colorado River Basin has demonstrated many times that the Law of the River can be supplemented to provide flexibility, as demonstrated by agreements such as the 2019 Drought Contingency Plans and California’s October 2022 proposal to create additional conserved water supplies. Through these two actions alone, California water agencies have collectively developed a proposal to conserve up to 750,000 acre-feet per year of water use, even though it has senior water rights on the Colorado River. While we hope a consensus-based agreement is developed in the coming weeks that comprehensively supplements the Law of the River, we respectfully request Reclamation to continue providing incentives to agencies who commit to voluntarily conserve water or develop transfers to ensure that critical human health and safety needs can be met while also respecting the priority system and prior commitments. Finally, as demonstrated by California’s 2003 Quantification Settlement Agreement and other intra-state water transfer agreements, each state should provide leadership to address the

critical water supply needs of its junior priority water users. California remains committed to that process as further water use reductions may be required in order to address the challenging hydrology and the need to rebuild some storage in the reservoir system.

The entire suite of Lower Basin actions, including existing water use reductions through voluntary agreements, should be considered when determining what additional mandatory reductions in use may be required in the Lower Basin. During the interim period, the sum of these actions should at a minimum fully account for the predictable system losses that occur on an annual basis. Both the magnitude of shortage reductions and the elevation at which shortages are triggered should be increased, to limit the duration of and occurrence of Lake Mead declining below critical reservoir elevations.

Finally, some across the Basin have advocated for Lower Basin water users to be individually assessed for reservoir evaporation, seepage, and other system losses. The Board recommends that these losses continue to be treated as a diminution of available annual supply, which can then be met through application of the Law of the River as supplemented by voluntary agreements. Any other application of losses may face considerable legal and technical challenges, and endanger existing water transfer agreements, which could interfere with voluntary proposals and halt forward momentum at a time when collaboration and decisive action is most needed. This approach could also destabilize elements of the existing Law of the River that continue to provide certainty for water supply reliability across the Basin and, of particular concern to California's Colorado River water users, jeopardize programs within California that have allowed the state to live with significantly less water for decades.

The Board's technical staff appreciates the opportunity to provide comments in response to the NOI and looks forward to participating further in the process to develop the draft SEIS evaluating potential modifications to the 2007 Interim Guidelines ROD. We also appreciate Reclamation's continued leadership in coordinating and communicating information to stakeholders across the Basin and the general public as we all work to address the significant challenges of responding to diminishing water supply conditions in the Colorado River System. We continue to encourage and support the use of a collaborative consensus-based decision-making process that respects existing agreements, honors prior commitments and obligations, and continues to utilize and develop flexibility to equitably meet critical water supply needs.

Please feel free to contact me, or Mr. Rich Juricich, at (818) 254-3203 if you have any questions or require additional information.

Sincerely,



Christopher Harris
Executive Director