



September 1, 2022

Ms. Carly Jerla  
Senior Water Resources Program Manager, Bureau of Reclamation

*Via email: CRB-info@usbr.gov*

Dear Ms. Jerla:

With this letter, the National Audubon Society (Audubon) is providing comments for the Bureau of Reclamation's (Reclamation) **pre-scoping for post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions** (as published in Federal Register Notice – 87 FR 37884 on June 24, 2022). Audubon protects birds and the places they need, today and tomorrow, throughout the Americas using science, advocacy, education, and on-the-ground conservation. Audubon has 1.8 million members who care deeply about birds, and these comments are submitted on their behalf. Audubon has joined with partners in two additional comment letters, and this letter is meant to be complementary.

Audubon is deeply concerned about current Colorado River conditions, a product of the combined impacts of an extended drought – exacerbated by climate change – and governance that has failed to reduce water uses fast enough to avoid unacceptable risks to water supply reliability for birds and people. Current Reclamation modeling shows the potential within the next 24 months for a “day zero” on the Colorado River, where reservoir water supplies fall so much that major dams are unable to reliably release water downstream. That risk is wholly unacceptable for people and nature.

Presently, federal and state agencies that collectively manage the Colorado River have not publicly defined plans to avoid that risk. While Reclamation's post-2026 management framework for the Colorado River cannot solve these challenges in the short term (and we understand there are short term management actions under consideration), it must be designed to avoid them in the future. Sound management cannot create water where there is none, but it can provide greater predictability and transparency, and enable greater flexibility to minimize harms to people and economies, as well as all birds and all life that depend on the river.

Freshwater-dependent habitats in the Colorado River Basin support more than 70% of all wildlife during some phase of their life cycle. The riparian forest that lines the waterways of the Colorado River Basin provides critical habitat for birds, including 400 species along the Lower Colorado River alone. Scores of dams and diversions have altered river flows, with the result that native tree species do not thrive and invasive shrubs

grow in their place, diminishing habitat value. With less native habitat available, at least six breeding bird species that rely on the Colorado River Basin, including the Bell's Vireo, Summer Tanager, Yellow-breasted Chat, Yellow Warbler, Southwestern Willow Flycatcher, and Western Yellow-billed Cuckoo, have experienced significant population declines.

As Reclamation defines the scope – in terms of both process and substance – for post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions, Audubon urges consideration of a number of issues described in this letter. Thank you for inviting this input.

## **1. PROCESS**

**Be transparent** – Reclamation's decision process must provide public access to options under consideration, evaluation criteria, and decisions at every step along the way. The changes in Colorado River hydrology are so large, with such far-reaching consequences for all water uses and potentially for other river basins, that the historic practice of back-room decision-making must be replaced with clear and thorough information-sharing throughout the decision process. For example, Reclamation could host monthly webinars discussing the status of negotiations, emerging reservoir and river management ideas, and updates regarding impacts analysis, and follow these webinars with opportunities for public comment. If the public is informed about these and other relevant issues on a regular cadence, Reclamation will have the opportunity to hear public input on a regular basis, rather than waiting for the infrequent, major milestones of the draft and final Environmental Impact Statements.

**Be inclusive** – Many historic laws, compacts, and treaties that form the foundation of Colorado River management were adopted when institutionalized exclusion of some peoples and interests, particularly Tribal sovereigns who have lived in the basin since time immemorial, was common. Reclamation's process must reverse those inequities and include representatives of Tribal sovereigns with Colorado River water rights, both settled and unsettled. Audubon cannot speak for the Colorado River Basin's Tribes, but we urge Reclamation to listen to the Tribes' suggestions for inclusion in the decision-making process.

**Prioritize Mexico's role in Colorado River management** – The benefits of increased collaboration with Mexico in recent treaty agreements (Minutes 316, 319, and 323) are broadly recognized, including increased supply reliability for all water users, increased water conservation, and binational collaboration to protect and restore habitat in the Colorado River Delta. While Reclamation must allow the International Boundary and Water Commission (IBWC) to lead Colorado River negotiations with Mexico, Reclamation should prioritize coordination with, and capacity support for, the IBWC to ensure the United States can prioritize future collaborative management with Mexico. Specific suggestions include:

- provide bilingual specialists dedicated to working with IBWC in the binational process to define management options for evaluation and metrics for impact assessment
- in partnership with Mexico, evaluate the potential for a revised salinity agreement to result in conserved water for Lake Mead, and the potential for revised groundwater agreements to increase supply reliability for water users in both countries
- ask Mexico for an inventory of projects that could conserve water
- ask Mexico for an inventory of needs related to Colorado River Delta habitat restoration including the dollars and water needed to extend and expand the benefits created under Minutes 319 and 323

## 2. SUBSTANCE

**Adopt a broad purpose and need** – Reclamation historically used enormous financial subsidies to promote development of the Colorado River and spur economic growth in the Western United States. In retrospect, it has broadly been acknowledged that this development also created significant negative outcomes for the region’s Tribes as well as birds and other wildlife. As the agency now necessarily pivots to Colorado River management that is adaptive to climate change impacts, the agency should adopt a purpose and need for management that improves the reliability of supplies for everyone and everything that depends on water, with some emphasis on correcting past inequities.

**Use sound science** – Reclamation’s decision process must be rooted in the best available science and reliable data, both regarding the range of future conditions in consideration of climate change impacts, as well as regarding the impacts of changes in river management.

**Evaluate and communicate available reservoir water supplies** – Each of Reclamation’s Colorado River reservoirs has a total supply – the total volume of water in the reservoir – and an available supply – the volume of water that a reservoir can deliver downstream in consideration of dead pool. Reclamation routinely reports on the total supply (as a percentage of full capacity) at its Colorado River reservoirs and does not routinely report on available supply. Earlier this year Reclamation highlighted this discrepancy while making the emergency decision to reduce the volume of water to be released from Lake Powell in 2022. All of Reclamation’s analyses, as well as all public communications about Colorado River reservoirs, should clearly communicate the available supply.

In addition, Reclamation should avoid considerations of “paper water” or “miracle water” – in other words considerations of water as if it exists in a location when it does not in fact exist. This is important for both modeling and rule-making. When water management is based on “paper water” it becomes even more difficult for lay audiences to understand and participate in decision-making. As an alternative, Reclamation should establish new accounting systems (in conjunction with clear and transporting reporting) that allow water users and federal facility managers greater flexibility in managing water supplies.

**Enable decision-making under uncertain future conditions** – As stated in Reclamation’s Federal Register notice, climate change makes future hydrologic conditions on the Colorado River unknowable. Reclamation has long relied on a probabilistic approach to projecting future hydrology, which has proven inadequate to capture the extent and pace of climate change impacts over recent decades. Reclamation’s decision process will create more a more sustainable operating framework – and a more sustainable Colorado River – if it considers hydrologic futures far more extreme than could be captured in a data-set premised on a river that provides a mean annual average of 11 million acre-feet, or 9 million acre-feet, or even 7 million acre-feet. The basin needs an operational regime that will stand up to the fullest range of future conditions imaginable.

**Aim for management that avoids crises** – Failure in this realm will perpetuate a crisis-based decision environment and continued uncertainty for all water users. In a perpetual crisis environment, water shortages – including in some cases potential loss of all surface water supply – will continue to threaten the economies of Western communities. In times of water supply crisis, water leaders at the local, state and federal levels will have less latitude and time to consider impacts to vulnerable communities and environmental resources, as their attention will necessarily be directed to the largest water-shortage-related economic impacts. Rather than deferring decisions about shortage-sharing and reservoir management in the driest of future conditions, as was done in the 2007 Interim Guidelines, Reclamation’s post-2026 management framework should provide

certainty so that local, state, and federal water managers can create plans for those future conditions now, while they have more time to consider a full range of options and impacts.

**Consider water supply reliability** – Reclamation’s evaluation of a future Colorado River reservoir management framework should consider the benefits of re-filling reservoirs in the near term as a way to increase the reliability of water supplies for all water users. If Reclamation’s impacts analysis emphasizes maximizing volumes of water available for delivery to water users, it may miss the benefit of a more reliable supply.

**Evaluate the difference between water shortages and voluntary, compensated reductions in water use** – Reclamation and the Colorado River Basin states have gained experience from system conservation pilots that date back at least 15 years. When water users engage in voluntary, compensated reductions in water use, the economic impacts are significantly different than when involuntary, uncompensated shortages are implemented, in terms of both the sectors and geographies that engage. A management framework based in voluntary and compensated reductions in water use can avoid shortages to water users least able to adapt to reduced water supplies, such as endangered species and critical urban water uses. Reclamation’s analyses of management options should clearly distinguish these different approaches to reducing water uses in the Colorado River Basin, and evaluate a full range of impacts for both, including how the distribution of reduced water use would differ.

**Consider increased flexibility in Colorado River management** – One often-recognized challenge of Colorado River management is the sheer number of jurisdictions (irrigation districts, municipal water utilities, counties, states, Tribal sovereigns, countries) that share the water resource. Among these jurisdictions are vast differences in water availability, water prices, and economic productivity of water uses. Because of these differences, there are instances where one jurisdiction has invested in water conservation located in another jurisdiction, where such an investment might not otherwise be economically rational. Because water is not perfectly “liquid” in a market sense, Reclamation should consider developing new and expanded tools to promote this kind of flexibility, such as water banks, with appropriate safeguards for third-party environmental and community economic impacts.

**Consider environmental water needs and environmental justice** – Reclamation’s decision should both include management options that intentionally improve freshwater-dependent habitats and the species that rely on them, and also fully evaluate the impacts of all management options on freshwater-dependent habitats and the species that rely on them. In addition, Reclamation must consider management impacts on vulnerable communities.

Habitats and species that depend on the Colorado River are jeopardized, as evidenced by the numerous endangered species designations in the basin, and climate change is further threatening their viability. Reclamation should create and evaluate at least one option for post-2026 management based on improving outcomes for freshwater-dependent habitats and species.

In addition, Reclamation’s analysis should include use of metrics that evaluate how various management options impact freshwater-dependent habitats and vulnerable communities including:

- Upper Basin River habitats, including metrics for spring peak flows and fall base-flows
- Grand Canyon habitats, including metrics for annual, minimum, and maximum flows
- Lower Colorado River habitats by reach, including metrics used to establish “covered” conditions in permits obtained through the Lower Colorado River Multi-Species Conservation Program

- Salton Sea habitats and environmental justice concerns, including inflows, water quality, lake levels, areas of exposed playa and dust emissions

**Consider how management options will interact with other responses to conditions on the Colorado River –**

Congress has made unprecedented appropriations in 2021 and 2022 to address Colorado River and other Western river conditions (I.e., through the Bipartisan Infrastructure Law and the Inflation Reduction Act). While we do not yet know the specifics of how these dollars will be used, the appropriations do come with authorizations and guidance, and some investment details will be known as Reclamation evaluates future management options. Reclamation’s analysis would benefit from consideration of these investments (current and future), and Reclamation’s post-2026 management decision should aspire to complement them.

Audubon is deeply appreciative of the opportunity to comment. We urge Reclamation to establish a process for developing a post-2026 Colorado River management framework that results in a resilient water supply and healthy rivers for all life – the people, the birds, and all the creatures that rely on this resource.

Sincerely



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Tanya Trujillo, Assistant Secretary for Water and Science, US Dept. of the Interior