



## Water & Tribes Initiative

### Colorado River Basin

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Dear Ms. Jerla:

The Water & Tribes Initiative (WTI) offers the following comments in response to the *Request for Input on Development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions* (Federal Register June 24, 2022). These comments highlight processes for meaningful participation in developing the next management framework, as well as potential substantive elements and strategies for post 2026 operations. They are intended to describe areas that could be included in the scope of one or more NEPA processes undertaken by the Bureau of Reclamation (BOR) to develop post-2026 operating guidelines and to address ongoing low reservoir conditions in the Basin. We appreciate the opportunity to submit these comments.

WTI is a collaborative partnership among Tribal, state, agricultural, conservation, and academic leaders in the Colorado River Basin. It is designed to pursue two objectives: (1) enhance the capacity of Tribes to manage water resources and engage in water policy discussions about the Colorado River; and (2) advance sustainable water use through collaborative problem-solving among Tribes and other water users in the Colorado River Basin. To achieve these objectives, WTI facilitates connections among multiple actors, builds trust and understanding among Tribal and other leaders, and creates opportunities to explore shared interests and options to work together.

The Federal Register notice seeks comment on “meaningful participation ideas and operational strategies to consider when updating key reservoir and water management decisions and agreements.” WTI has worked on these two general topics over the past five years with all 30 Tribes in the basin and a diverse array of other basin decision-makers and stakeholders

In 2020, WTI published a report focused on exactly this subject. The report, [\*Toward a Sense of the Basin: Designing a Collaborative Process to Develop the Next Set of Guidelines for the Colorado River System\*](#). It summarizes the substance of more than 100 interviews conducted

by the WTI co-facilitators with Tribal and other leaders in the basin on options to facilitate meaningful participation by Tribes and others in developing and implementing the next management framework for the Colorado River System. The findings from the interviews were further developed and refined through a series of three workshops conducted in 2019 and 2020 that included representatives from Tribal, federal, and state governments; water utilities; agriculture; conservation groups; universities; and other stakeholders and experts.

In terms of supporting “meaningful participation,” Chapter 3 of the report provides specific strategies to enhance public participation and stakeholder collaboration; Chapter 4 describes specific, practical processes to enable Tribal participation in developing and implementing the next set of guidelines; and Chapter 5 presents options to address science, indigenous knowledge, and cultural values, including the importance of translating Tribal spiritual, cultural, and ecological values into terms that can be understood and implemented by water managers.

In terms of identifying “operational strategies” for managing water in the Colorado River Basin, Chapters 1 and 2 present alternative visions for the future of the Colorado River system, as well as identify the most compelling issues that should be addressed in the next management framework.

In addition to *Toward a Sense of the Basin*, WTI has also produced a series of [policy briefs](#) to raise awareness and understanding of Tribal needs and interests, as well as options for Colorado River policy and governance.

- [Policy Brief #3, A Common Vision for the Colorado River System: Toward a Framework for Sustainability](#), provides a synthesis of values and visions for the Colorado River system as articulated by Tribes and other leaders in the Basin. These concepts could be considered as part of the Purpose and Need for the NEPA processes associated with the next management framework, or shorter-term measures to address the historically dry conditions and low reservoirs.
- [Policy Brief #4, The Status of Tribal Water Rights in the Colorado River Basin](#), is a useful supplement to the BOR and Ten Tribes Partnership *Tribal Water Study*. It summarizes recognized and unresolved Tribal rights that need to be considered in modeling the impact of various management scenarios.
- [Policy Brief #5: Developing the Next Framework to Manage the Colorado River: Flexible Tools to Benefit Tribes and the Basin](#) provides background on how Tribes have entered into voluntary, compensated water sharing agreements and presents a menu of flexible tools to benefit Tribes, other water users, and the basin as a whole both in the short-term as well as the next management framework.

These and other WTI resources -- including research and education on universal access to clean water in Tribal communities and facilitation of several collaborative dialogues among

Tribes, States, conservation groups, and other stakeholders in the basin -- provide several suggested strategies for participation in developing and implementing the next management framework for the Colorado River system, as well as strategies for the operational management of the system. To highlight just few suggestions that emerge from the WTI resource materials:

Strategies for participation (all documented in *Toward a Sense of the Basin*):

1. Four sets of sovereigns in the Basin – the United States, Mexico, States, and Tribes – have unique and complementary roles in managing the Colorado River system; BOR could support one or more forums for the sovereigns to work together and share problem-solving responsibilities;
2. Given the value of working at different spatial scales, BOR could support – financially, technically, and administratively -- a diversity of existing and emerging watershed councils, state-based forums, upper and lower basin-specific dialogues, and basin-wide (including Mexico) assemblies to facilitate meaningful participation by Tribes and other water users, stakeholders, experts, and the public; and
3. Consistent with the Biden Administration’s [policy](#) to better integrate Indigenous knowledge into federal public land and water policy decision-making, BOR could support a series of experiments to integrate Indigenous knowledge and western science to enhance our understanding of the Colorado River System and strategies to promote and support sustainable water use.

Strategies for operational management:

1. As documented in *Toward a Sense of the Basin*, BOR could move beyond a management framework that focuses exclusively on operating guidelines for the reservoirs to a more comprehensive, integrated management plan that also recognizes the value of the river as a river;
2. As explained in WTI’s *Policy Brief 5, Developing the Next Framework to Manage the Colorado River: Flexible Tools to Benefit Tribes and the Basin*, BOR could fully account for Tribal water rights, both currently recognized and unresolved water rights, and consider the testing, development, and use of flexible tools that honor Tribal self-determination, change consumptive use incentives for Tribes, and enhance Basin-wide water security; and
3. BOR could fully account for Tribal treaty rights and the federal obligation to provide universal access to clean drinking water for Tribes by addressing shortcomings in federal programs to provide technical assistance and funding for Tribal water conservation, management, and infrastructure projects.

The strategies for participation summarized above and discussed in detail in the *Toward the Sense of the Basin* report can be adopted and implemented in the NEPA process(es)

associated with the development of the next river management framework and shorter-term efforts to address low reservoir conditions. With respect to the management strategies, recognizing the value of the river as a river and its spiritual, cultural, and ecological significance to Tribes and others can be part of the purpose and need in the NEPA process(es), and accounting for and modeling the full extent of Tribal water rights could be integrated into the NEPA evaluation.

WTI recognizes that issues like flexible tools and universal access to clean drinking water may require legislation and appropriations that are beyond immediate control of BOR and thus, may not be appropriate for inclusion in the scope of the intended NEPA process(es). However, BOR could identify how work in the intended NEPA process(es) and the next management framework could complement these necessary parallel efforts so that the management framework addressed in the NEPA process can enjoy broad support.

WTI stands ready to serve as a resource to Tribes, federal and state officials, and other stakeholders in the basin as we all come together to develop the next management framework for the Colorado River System.

Sincerely,

Daryl Vigil and Matthew McKinney  
Co-facilitators, Water & Tribes Initiative

P.S.

This letter was prepared with input from the WTI Leadership Team. However, this letter and its contents does not necessarily represent the official position of any one person or the organizations or entities with which the Leadership Team members are associated.