



Colorado River Upper Division State Representatives of Colorado, New Mexico, Utah, and Wyoming

March 5, 2024

The Honorable Camille Touton
Commissioner
U.S. Bureau of Reclamation
1849 C Street NW
Washington, DC 20240

VIA ELECTRONIC MAIL
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Dear Commissioner Touton:

The undersigned Governor Representatives for the Upper Division States (UDS) submit the following Upper Division States' Alternative (UDS Alternative). We request that the Bureau of Reclamation (Reclamation) evaluate the UDS Alternative in conjunction with its June 16, 2023, Notice of Intent to "Prepare an Environmental Impact Statement for Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead," 88 FR 3945 (Notice), and its October 20, 2023 Notice of Availability for the "Colorado River Reservoir Operations: Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead," 88 FR 72535 (Scoping Summary Report).

We submit this UDS Alternative as a set of modeling assumptions and operating parameters. This is an effective alternative to sustain Lake Powell and Lake Mead into the future. We request that this submittal be considered and evaluated as an alternative for the Post-2026 Operational Guidelines (Post-2026 Operations) NEPA process. This UDS Alternative meets Reclamation's preliminary assessment of the purpose and need described in the Scoping Summary Report and broadly aims to describe the coordinated operation of Lake Powell and Lake Mead in a manner that: (1) Is consistent with the Law of the River; (2) Reduces the risks caused by depleted storage in Lake Powell and Lake Mead; (3) Reflects the best available science and information including impacts caused by climate change; (4) Addresses the existing imbalance between water supply and demands in the Basin which depend on storage in Lake Powell and Lake Mead; (5) Operates Lake

Powell and Lake Mead based on observed conditions instead of projected conditions; (6) Accounts for hydrologic shortages in the Upper Basin. The UDS also acknowledge settled but undeveloped Tribal water rights in the Upper Basin although those are not specifically described in the UDS Alternative.

Modeling assumptions for the UDS Alternative include the following key parameters for operations at Lakes Powell and Mead:

- 1) CRSS Model Version. The August release of CRSS v.6 with November 2023 initial conditions has been used to develop the UDS Alternative. This version of CRSS incorporates:
 - a. Upper Basin current and future water uses based on the Updated 2016 Upper Division States Depletion Demand Schedule (June 2022) and estimated Upper Basin hydrologic shortages; and
 - b. Lower Basin water uses as characterized in the model.
- 2) Combined Storage Trigger (Trigger). The purpose of the Trigger described in this section is to determine reductions in modeled Lower Basin water use. The UDS Alternative includes a calculation of a Combined Storage Trigger for Lake Powell and Lake Mead on October 1. The Trigger is calculated using Lake Powell and Lake Mead’s Storage volume (live storage below flood control elevations) by subtracting a threshold volume from the total live storage. The threshold volume for Lake Powell is 4.2 MAF. The threshold volume for Lake Mead is 4.5 MAF. The threshold volume for the two reservoirs combined is 8.7 MAF. The UDS Alternative does not explicitly protect any reservoir elevations and is agnostic as to how modeled reductions are attributed below Lee Ferry. The calculation of the Trigger is as follows:

$$\frac{\text{Current Live Storage} - \text{Threshold Volume}}{\text{Total Live Storage} - \text{Threshold Volume}} \times 100$$

Lake Powell Operations

The UDS Alternative includes the Lake Powell release curve as described in the table below based on observed conditions at the start of the Water Year beginning on October 1.

Lake Powell Elevation (October 1)	Lake Powell Percent Full (live storage)	Lake Powell Water Year Release
> 3,700'	100%	As required by dam safety regulations
3,670' - 3,700'	81% – 100%	Linear Rule Curve - 8.1 - 9.0 MAFY
3,510' - 3,670'	20% – 81%	Linear Rule Curve - 6.0 - 8.1 MAFY
< 3,510'	< 20%	6.0 MAFY

Lake Mead Operations

Lake Mead operations are adapted from a concept first proposed by the Lower Division States. The reduction curve described below identifies water use reductions as a function of the Trigger. All reductions are assumed to be applied to Lower Basin mainstem consumptive use of 7.5 MAFY, defined as diversions from the mainstem minus return flows. The operating year reductions are determined based on the October 1 Trigger each year. Based on the Trigger values below, this reduction curve results in the following volumes being unavailable for release from Lake Mead or for delivery in the Lower Basin.

October 1 Trigger	Lower Basin Reductions	Description
> 90%	0 MAFY	No Lower Basin Reductions
90% - 70%	0 – 1.5 MAFY	Lower Basin Reductions linearly increase up to a maximum of 1.5 MAFY
70% - 20%	1.5 MAFY	Lower Basin 1.5 MAFY Reduction remains static
20% - 0%	> 1.5 MAFY	In addition to the static 1.5 MAFY Reductions, Lower Basin Reductions linearly increase up to an additional 2.4 MAFY

No Action Alternative

As of the date of this submittal, Reclamation has not disclosed the No Action Alternative for this EIS. The No Action Alternative must acknowledge that, upon expiration of the 2007 Interim Guidelines, the operating criteria for Lake Powell and Lake Mead will revert to the Long-Range Operating Criteria (LROC) used to model baseline conditions in the Final Environmental Impact Statement for the Interim Surplus Guidelines dated December 2000. However, details regarding potential implementation of the LROC are unclear. We request that the Secretary consult with the Basin States for input on the development of the No Action Alternative.

Term of Post-2026 Operations

The Post-2026 Operations must be interim in duration. In the Notice, Reclamation states that the Post-2026 Operations will be approximately twenty years in duration. However, due to uncertain future hydrologic conditions, and the uncertainty of future actions, the UDS assert that a shorter interim period may be warranted.

Hydrologic Shortages

The water supply available to the UDS is uncertain every year due to hydrologic variability. UDS water users are subject to hydrologic shortages each year which are involuntary reductions in consumptive water use due to the lack of physical and legal availability of water. As the water available is uncertain each year, the volume of water that can be derived from Parallel Activities defined below is limited.

Parallel Activities

In the event that this UDS Alternative is adopted, the UDS will undertake parallel but separate activities *that are not a part of this federal action or part of the UDS Alternative*. Parallel activities refer to actions in the Upper Basin that are beyond the scope of the Post-2026 Operations, but may complement those operations.

The UDS will take additional actions to help preserve the ability to release water from Lake Powell including potential releases of water from CRSPA Upstream Initial Units (Flaming Gorge, Aspinnall, Navajo). Any releases from the CRSPA Upstream Initial Units to help maintain Lake Powell releases must occur within existing authorities, will take place outside of this NEPA process and will be subject to separate criteria.

The UDS will also pursue voluntary, temporary, and compensated reductions of consumptive use. Conserved volumes will vary based on multiple factors, including hydrologic conditions. Temporary conservation would occur without impairing the right to exercise existing water rights. Conserved water would be credited to, and be available for, the benefit of the UDS, including helping to maintain Lake Powell releases under certain conditions. These activities may also provide benefits for environmental resources.

Continued Collaboration

Since Reclamation issued the Notice on June 16, 2023, the seven Basin States have consulted among themselves and with Reclamation to explore potential Post-2026 Operations for Lake Powell and Lake Mead, together with potential parallel activities. The UDS have also engaged with Upper Basin Tribes, water users, and non-governmental organizations on these topics. While we are submitting this UDS Alternative as four states, we recognize the value of Basin-wide collaboration in order to achieve the flexibility and innovation needed in the face of an uncertain

future. Accordingly, we welcome future opportunities to explore a seven-state consensus alternative.

Reservation of Rights

Operations proposed under this UDS Alternative do not represent interpretations of existing law by the undersigned. The UDS expressly reserve their rights under applicable law, including, but not limited to the Law of the River. Nothing in this submittal is intended, nor shall be construed, to interpret, diminish, or modify the rights of the UDS or the Upper Colorado River Commission (UCRC) under federal or state law or administrative rule, regulation, or guideline. This submittal is not intended to be, and shall not be construed in any way as, a waiver of any such rights. Moreover, we reserve the right to provide further comments, consult with the Secretary, take any other necessary steps, and engage with Reclamation as it proceeds with subsequent phases of the Post-2026 Operations NEPA process.

Conclusion

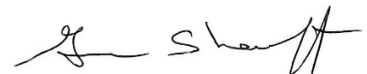
The UDS Alternative protects Lake Powell storage for the benefit of both the Upper and Lower Basins, mitigates the risk of either Lake Powell or Lake Mead reaching dead pool, and is consistent with the Law of the River.

We ask that Reclamation advance this UDS Alternative through the NEPA process and that Reclamation model and evaluate the impacts of this Alternative in its Draft Environmental Impact Statement for Post-2026 Operations. The UDS are willing to work with Reclamation to optimize the UDS Alternative in order to facilitate Reclamation's development of a preferred alternative.

Sincerely,



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State of Colorado



Gene Shawcroft
Governor's Representative
State of Utah



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