

San Juan Water Commission

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MEMBERS:
City of Aztec
City of Bloomfield
City of Farmington
San Juan County
S.J. County Rural Water Users
Association

September 1, 2022

Department of the Interior
Bureau of Reclamation

Via E-mail (CRB-info@usbr.gov)

Re: Comments of the San Juan Water Commission on the Proposed Development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead

Dear Sir or Madam:

This letter provides the San Juan Water Commission's ("Commission") comments in response to the Bureau of Reclamation's ("Bureau") "Request for Input on Development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions" published in the *Federal Register* on June 24, 2022 (87 *Fed. Reg.* 37,884). Based on the information provided by the Bureau in the *Federal Register* notice and the two virtual meetings held in July, the Commission understands that the Bureau requests input on (i) mechanisms to ensure that the anticipated NEPA process includes a wide range of Colorado River Basin stakeholders and (ii) the substantive elements or scope of the NEPA process.

The Commission is acutely interested in all Colorado River operations, including the proposed development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions ("Post-2026 Colorado River Reservoir Operations"). The Commission is a political subdivision of the State of New Mexico comprised of twelve other political subdivisions: (i) the cities of Aztec, Bloomfield and Farmington; (ii) San Juan County; and (iii) San Juan Rural Water Users Association, which itself is comprised of eight non-profit mutual domestic community water associations. The Commission's purpose is to acquire and protect untreated water supplies for municipal, industrial and domestic use for almost all water users in San Juan County living outside of tribal lands. Currently, San Juan County has a population of approximately 125,000 residents.

Significantly, to fulfill its mission, the Commission is a participant in the Animas-La Plata Project ("ALP Project"), and it holds a permit for 20,800 acre feet of water diversions from that Project. The Commission also holds permits for water diversions totaling more than 10,000 acre feet per year from the San Juan River Basin

unassociated with the ALP Project. These water rights are separate from, and in addition to, the water rights of the Commission's individual member entities. Clearly, the anticipated NEPA process for Post-2026 Colorado River Reservoir Operations has the potential to impact the surface water supply available to the Commission's member entities, and, in fact, all water users in San Juan County, New Mexico. The Commission thus submits the following comments concerning the design of the NEPA process addressing Post-2026 Colorado River Operations.

Stakeholder Inclusivity

The Commission supports any effort to ensure that the anticipated NEPA process includes a wide range of Colorado River Basin stakeholders in order to develop consensus-based reservoir operations and avoid costly and protracted litigation. In particular, the Commission requests that, in addition to federal and state agencies,¹ the Bureau invite participation by Upper Basin water users, particularly participants in the Animas-La Plata Project, participants in the San Juan-Chama Project, and other Colorado River Basin water users located in the State of New Mexico. Specifically, in addition to the Commission, the following entities, among others, may have an interest in the anticipated NEPA process:

- San Juan County, New Mexico
- City of Aztec, New Mexico
- City of Bloomfield, New Mexico
- City of Farmington, New Mexico
- San Juan County Rural Water Users Association, New Mexico
- San Juan Agricultural Water Users Association, New Mexico
- San Juan River Basin Recovery Implementation Program Coordination and Biology Committees
- La Plata Conservancy District, New Mexico
- Hammond Conservancy District, New Mexico
- San Juan-Chama Watershed Partnership, New Mexico
- Albuquerque Bernalillo County Water Utility Authority, New Mexico
- City of Gallup, New Mexico
- Middle Rio Grande Conservancy District, New Mexico
- Buckman Direct Diversion, New Mexico
- Santa Fe County, New Mexico
- City of Santa Fe, New Mexico
- Navajo Nation
- Navajo Tribal Utility Authority
- Jicarilla Apache Nation
- Ute Mountain Ute Tribe

¹ At a minimum, the following federal and state agencies should be involved in the NEPA process: U.S. Fish & Wildlife Service, U.S. Bureau of Land Management, U.S. Bureau of Indian Affairs, New Mexico Interstate Stream Commission, New Mexico Office of the State Engineer, New Mexico Department of Game & Fish, Colorado Department of Natural Resources, Colorado Water Conservation Board, and Colorado Parks & Wildlife.

Southern Ute Indian Tribe
Animas-La Plata Project OM&R Association, Colorado
City of Durango, Colorado
Southwestern Water Conservation District, Colorado
Colorado Water Resources and Power Development Authority
Animas-La Plata Water Conservancy District, Colorado
Lake Durango Water Authority, Colorado
Colorado Water Conservation Board
La Plata Archuleta Water Board, Colorado
The Nature Conservancy

In addition to formally inviting the above-listed entities and the Commission to participate in the NEPA process, the Commission urges the Bureau to undertake significant public outreach to inform other potentially interested New Mexico stakeholders (whether individual members of the general public or organizations) about their opportunity to participate. Such outreach should include the following:

1. in addition to online posting, posting paper copies of NEPA-related documentation and notices with (a) the New Mexico Office of the State Engineer's district offices in Aztec, Santa Fe and Albuquerque, New Mexico and (b) the Bureau of Indian Affairs offices in Crownpoint and Shiprock, New Mexico;
2. publishing notice of opportunities to participate in the NEPA process in newspapers such as the *Navajo Times*, the *Gallup Independent*, the *Farmington Daily Times*, the *Rio Rancho Observer*, the *Rio Grande Sun*, and the *Albuquerque Journal*;
3. holding public meetings describing the NEPA process, including in Albuquerque, Farmington, and Santa Fe, New Mexico, and in the Shiprock Chapter and Crownpoint Chapter of the Navajo Nation in New Mexico; and
4. publicizing those public meetings in rural areas, including the Jicarilla Apache Nation and the Navajo Nation in New Mexico, by broadcasting meeting information over radio stations.²

These recommended public notice actions are modeled after the public notice ordered by the Eleventh Judicial District Court for the *inter se* litigation of the Navajo Nation's water rights in the San Juan River Basin Adjudication in New Mexico, which worked well.


² In-person meetings should be held in rural areas of the State of New Mexico because the lack of robust internet service prevents attendance at virtual meetings.

Scope of the NEPA Process

With respect to the scope of the NEPA process, the Commission urges the Bureau to limit its work to “develop[ing] operating strategies for the continued coordinated operation of Lake Powell and Lake Mead,” as described in the June 24th *Federal Register* notice (Vol. 87 at 37,884). Addressing upstream reservoir operations and/or management of the entire Colorado River Basin will unnecessarily complicate and delay development of an operational plan for Lakes Powell and Mead and may exceed the Secretary’s authority in the Upper Basin. As noted in the Bureau’s December 2020 “Review of the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead” (at 1), the 2007 Interim Guidelines “provided the opportunity to gain valuable experience for the management of Lake Powell and Lake Mead under modified operations and improve[d] the basis for making future operational decisions” Because of the experience gained under the 2007 Interim Guidelines, the anticipated NEPA process is appropriately focused on the development of post-2026 operations for Lake Powell and Lake Mead.

Thank you for your consideration of these comments. If the Bureau has any questions about the Commission’s position, please do not hesitate to call me.

Sincerely,


Aaron Chavez
Executive Director
San Juan Water Commission