

March 2, 2026

United States Bureau of Reclamation  
Attn: BCOO-1000  
P.O. Box 61470  
Boulder City, Nevada 89006

*Via email to [crbpost2026@usbr.gov](mailto:crbpost2026@usbr.gov)*

**Re: Request for Comment on Draft Environmental Impact Statement on Post-2026  
Operational Guidelines and Strategies for Lake Powell and Lake Mead – 91 FR 2131**

The Town of Gilbert (Gilbert) appreciates the opportunity to respond to the U.S. Bureau of Reclamation's (Reclamation) request for comments on the Draft Environmental Impact Statement (DEIS) for the Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, published in Federal Register Notice 91 Fed. Reg. 2131 (January 16, 2026).

Gilbert is the third-largest municipality in the Greater Phoenix area and continues to be one of the fastest-growing communities in Arizona, with a population exceeding 290,000. Gilbert's thriving economy is anchored by significant employers in industries representing healthcare and life sciences, clean technology, aerospace and defense, advanced business services, information communications technology, optics, and education. Gilbert holds multiple subcontracts and leases for Colorado River water delivery through the Central Arizona Project (CAP) system. Our community relies heavily on Colorado River water delivered through the CAP to meet existing municipal, industrial, and economic needs, making up approximately 50% of our annual water deliveries.

We share Reclamation's concerns outlined in the DEIS about the risks facing the Colorado River system and agree that past agreements have not been sufficient to prevent declines in Lake Mead and Lake Powell. However, the alternatives evaluated in the DEIS fail to adequately consider the unique challenges and impacts on municipalities like Gilbert.

Over the past several years, Gilbert has been working tirelessly to increase water resiliency given the reality of the condition of the Colorado River. These efforts include:

- launching three water conservation rebate programs that have achieved over 600,000 square feet of grass removed,
- deploying Advanced Metering Infrastructure,
- increasing recharge capacity,

- reconstructing a surface water treatment plant to fully use other resources,
- drilling seven new wells, and
- participating in the regional strategies such as the 2019 Drought Contingency Plan, the 500 Plus Plan, the Bucket 1A Program, and the Bucket 2 Program.

All these efforts have required massive investment from the community. Just under 300,000 residents are bearing the cost of over \$800 million in infrastructure to ensure water security. To achieve this, Gilbert has raised rates by 50% in 2024, 25% in 2025, and another 25% increase was just approved in February 2026. These increases are disrupting the community's deeply held norms, causing cultural disruption and civic stress. The DEIS alternatives impose untenable additional impacts on the community that must be evaluated.

Gilbert supports a consensus inter-state and international agreement, with engagement with tribal sovereigns, as the basis for post-2026 operations on Lake Powell and Lake Mead. A specific concern regarding the lack of an agreement is the status of two System Conservation Implementation Agreements that Gilbert entered with Reclamation in January 2025 (SCIA No. 24-XX-30-W0841 and No. 24-XX-30-W0842). These agreements fund critical projects to increase Gilbert's resilience to ongoing Colorado River shortages and are well underway. Without the federal funding for these projects, Gilbert would have to ask ratepayers to bear the burden, and as previously stated, this is not possible given all that is already being asked of the community.

Whether or not the Basin States offer a consensus alternative, we urge Reclamation to consider other pathways besides those alternatives considered in the DEIS. These alternatives, and Reclamation's related evaluations thereof in the DEIS, are inadequate and present unacceptably high risks to Gilbert for the following reasons. In addition, Gilbert concurs with and supports comments submitted on the DEIS by CAP and the Arizona Department of Water Resources (ADWR).

**1. The DEIS fails to consider the local, state, regional, and national economic consequences stemming from any of the alternatives' impacts on cities like Gilbert.**

The economic impacts of any of the considered reductions to CAP under the DEIS alternatives will have enormous negative consequences for the national economy. Despite this, the DEIS completely fails, not only to analyze, but to even mention these consequences.

Gilbert is part of the Phoenix metro area—the 10th largest in the U.S.—and home to industries critical to national security and the economy. Gilbert's economy is deeply interconnected with regional and national industries, including semiconductor manufacturing and data centers that require reliable water supplies. Any significant

reductions in CAP deliveries will jeopardize these industries, local businesses, and thousands of jobs, with ripple effects across the national economy.

Companies like Northrop Grumman, Silent Aire, Deloitte, Banner/MD Anderson Cancer Center, and Footprint employ thousands of people in the community and provide critical goods and services that support national interests like defense, sustainability, and health. Additionally, Gilbert is part of the East Valley's semiconductor corridor, supporting facilities for Intel and suppliers tied to Taiwan Semiconductor Manufacturing Company (TSMC). These industries require reliable water supplies for cooling, manufacturing, and operations. An unpredictable water future not only negatively affects local operations but also poses a threat to critical national resources.

This critical and growing economy will falter if these facilities face significant water curtailments, as will the myriad of businesses – from construction to catering – that support these industries. Reclamation fails to even raise these questions, much less attempt to consider them, in the DEIS. Under 42 U.S.C. § 4332(C)(iii), in the DEIS, Reclamation is required to consider “a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal.” It is impossible to rigorously explore and objectively evaluate these alternatives without consideration of the impacts on the communities and industries that depend on Colorado River deliveries from CAP. Reclamation has failed to meet these regulatory obligations by ignoring the economic impact of the DEIS alternatives on Arizona cities like Gilbert.

If Reclamation's primary duty in the Colorado River were boiled down to one critical aim, that aim would be to avoid dead pool in critical reservoirs. Yet every alternative proposed in the DEIS has an unacceptably high risk of dead pool, and no analysis whatsoever regarding the impacts of dead pool on municipal and industrial water users in Central Arizona, let alone the impact to the national economy. Furthermore, the DEIS fails to analyze the impact on municipal and industrial users as third-party beneficiaries of tribal water leases or for tribal uses of their surface water sources to recharge shared aquifers. Curtailments to the CAP will impact tribal, industrial, and municipal users, and it is impossible to impact one without impacting the others. This important relationship is left unmentioned and unexamined in the DEIS.

The National Environmental Policy Act (NEPA), which creates the EIS requirements, requires federal agencies like Reclamation to consider the “reasonably foreseeable environmental effects of the proposed agency action.”<sup>1</sup> Under 40 C.F.R. § 1508.1(i)(4), “effects” are defined to include “aesthetic, historic, cultural, economic, social or health”

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<sup>1</sup> 42 U.S.C. § 4332(C).

impacts on communities. NEPA requires Reclamation to fully analyze the impacts of water curtailments to Gilbert caused by any alternative impacting CAP supplies. Indeed, the scope of the impacts to Gilbert and those we serve is so broad that Reclamation should have included at the very least the U.S. Department of Commerce and the U.S. Department of Defense in the preparation of the DEIS, because the impacts of curtailment to CAP have such profound implications for national security and for the national economy.

## **2. Alternatives Do Not Allow Adequate Time for Water User Adaptation**

The DEIS merely assumes that CAP water users will adapt to imposed shortages without evaluating the associated economic costs, system disruptions, or secondary effects. As previously noted, Gilbert has undergone three massive rate increases from 2024 to 2026 to provide water security, and the DEIS must evaluate the additional impact the presented alternatives will have on the community in adapting to long-term reductions in a supply that meets over 50% of its annual deliveries.

Reclamation's selection of alternatives in the final DEIS must be grounded in the practical realities of municipal water delivery systems. As the Lower Basin watermaster, Reclamation must account for the fact that the supply challenges municipal and industrial (M&I) users will face on January 1, 2027 must be addressed using the infrastructure, staffing, and treatment capacities that exist today. Gilbert, like other Central Arizona municipalities, relies on water treatment and distribution systems with minimum operational thresholds. These systems cannot be rapidly redesigned, resized, or replaced to accommodate significant, near-term reductions in Colorado River supplies. Their configuration, sizing, and operating protocols were developed under long-standing expectations of supply reliability that Reclamation itself has fostered over decades of Colorado River system management.

While Gilbert has developed reserve supplies through recharge over several decades and is rapidly drilling seven additional wells to access them, these reserves were never intended to compensate for the scale or permanence of the reductions contemplated in the DEIS. These reserve supplies would be quickly depleted in the face of reductions of 50 percent to 100 percent to the CAP, and increased reliance on groundwater would create its own environmental and infrastructure impacts. As seen elsewhere in the Phoenix Active Management Area, major reductions in CAP deliveries would inevitably increase groundwater pumping, contributing to declining water levels, well failures, and increased land subsidence risks—conditions that Gilbert must actively work to avoid.

Even where backup supplies exist, they cannot necessarily substitute for specific lost sources. Gilbert's Santan Vista Water Treatment Plant is designed and optimized around

the specific raw water characteristics from the CAP. This facility has minimum throughput requirements and water quality design parameters that cannot simply be met using alternative raw water sources without significant, long-lead modifications. Likewise, the transmission mains, storage reservoirs, and pumping systems that convey water from these plants to Gilbert's pressure zones are sized to move specific volumes of water and cannot be downshifted arbitrarily. Pressure zone interconnections, including emergency interties with neighboring jurisdictions, provide redundancy but cannot fully offset the loss of major production sources such as the CAP. Under many of the DEIS scenarios, portions of Gilbert's service area would face severe operational constraints without the ability to move replacement water through the CAP.

Constructing new infrastructure to support alternative supplies requires years to decades to plan, permit, finance, and construct. The high cost of these facilities may exceed reasonable rate capacity or bonding limits, especially for Gilbert, who is already investing heavily in new water, wastewater, and recharge infrastructure to maintain reliable water deliveries and comply with state regulations.

Even when reduced supplies can be physically delivered, demand reductions cannot be implemented overnight. Gilbert has invested heavily in conservation, efficiency, and education programs for decades, achieving significant reductions in per-capita water use. The most cost-effective and achievable conservation actions have already been implemented, and additional reductions often require expensive landscape conversions, new technologies, or customer-side infrastructure changes that take years to adopt at scale. In Gilbert's desert climate, reductions in landscape irrigation also create tradeoffs with urban heat mitigation—an essential public health concern.

Given these constraints, adaptations to steep Colorado River reductions cannot be imposed abstractly by Reclamation. Achievable alternatives must reflect the physical limitations of real infrastructure, the volumes required to operate Gilbert's treatment plants and pressure zones safely, and the multi-year to multi-decade timelines required to develop and implement new water supplies. Many adaptation pathways require extensive interjurisdictional coordination, regional agreements, and significant capital investment, all which Reclamation must actively support and enable, rather than assume.

Accordingly, Gilbert urges Reclamation to refine its alternatives to include operational strategies that align with the real-world limitations of municipal water treatment and distribution systems. Future decisions must be grounded in the actual capacities, pressure zone requirements, and treatment constraints that govern Gilbert's water delivery system and must provide municipalities with the flexibility needed to plan, invest, and adapt to rapidly evolving Colorado River conditions.

### **3. Reclamation Misinterprets the Scope of its Authority in the Law of the River.**

Reclamation insists that, in the absence of a consensus inter-state agreement on the Colorado River, it only has authority to implement the Basic Coordination Alternative. This assumption is both an overstatement and understatement of Reclamation's authority. Reclamation must implement the Law of the River as established by Compact, statute, regulations, and agreements. As discussed in more detail below, the Law of the River does not give Reclamation the authority to impose water reductions on Arizona at the scale proposed in the Basic Coordination Alternative. As noted in *Arizona v. California*, such power vested in a federal agency over the water resources of millions raises "the gravest constitutional doubts".<sup>2</sup>

At the same time, Reclamation insists it has no power to impose any kinds of reductions on Upper Basin states. As discussed in more detail below, that is simply not true, either from a legal standpoint or a practical operational standpoint. Reclamation owns and operates infrastructure in the Upper Basin and can use that power to impose water reductions on the Upper Basin and ensure deliveries to the Lower Basin as required by the Colorado River Compact and subsequent legislation, including the 1968 Colorado River Basin Project Act (CRBPA).<sup>3</sup> For reasons left unexplained in the DEIS, Reclamation assumes sweeping, potentially unconstitutional powers to impose reductions on the Lower Basin without an agreement but considers itself impotent to require anything of the Upper Basin. It is little wonder that Reclamation has failed to lead the Basin States toward a consensus agreement when it insists on requiring everything from some and nothing from others. Such an inequitable approach violates the law and is bound for conflict.

### **4. The DEIS fails to address foreseeable violations of the Colorado River Compact delivery obligations or whether its alternatives might result in violations of those obligations.**

Article III of the Colorado River Compact apportions 7.5 million acre-feet (MAF) per year to the Upper and Lower Basins, with an additional one million acre-feet apportioned to the Lower Basin. Article III(d) further provides that the Upper Basin "will not cause the flow of the River at Lee Ferry to be depleted below an aggregate of 75,000,000 acre-feet for any ten consecutive years", as well as the Upper Basin's share of the obligation owed to Mexico. NEPA requires Reclamation to include "reasonably foreseeable environmental effects" in the considerations of its actions.<sup>4</sup>

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<sup>2</sup> 373 U.S. 546, 626 (1963) (Harlan, J., joined by Douglas & Stewart, JJ., dissenting in part).

<sup>3</sup> 43 U.S.C. § 1501 *et seq.*

<sup>4</sup> 42 U.S.C. § 4332(C)(i)

It is reasonably foreseeable that the Upper Basin will fail to meet its obligation under the Compact soon, and how Reclamation responds to a Compact violation is relevant information. Despite these clear statutory requirements related to sharing highly relevant information related to this reasonably foreseeable condition, the DEIS fails to include any consideration of the possibility of a Compact violation by the Upper Basin. Any alternative considered by Reclamation must comply with the Compact, and yet the DEIS fails to consider whether any of its proposed alternatives would result in a violation of the Upper Basin's obligations under the Compact.

**5. The DEIS reflects a change in Reclamation's interpretation of the Colorado River Basin Project Act and Long-Range Operating Criteria without explanation.**

Under Section 602(a) of the CRBPA, Reclamation must comply with the Colorado River Compact and the 1944 Treaty with Mexico, and develop "criteria for the coordinated long-range operation" of the federal reservoir system.<sup>5</sup> In 1970, Reclamation promulgated the "Long Range Operating Criteria" (LROC) as mandated by the CRBPA and as later amended in 2005.<sup>6</sup> Contrary to the suggestions in the DEIS, the CRBPA and LROC created a specific order of priorities and criteria for maintaining minimum releases from Lake Powell.

A federal agency, like Reclamation, cannot make changes to longstanding policy *sub silentio*, but must explain such changes.<sup>7</sup> Reclamation does not explain how or why, after years of acknowledging the priorities and criteria established in the CRBPA and LROC, it has now decided that they provide no specific guidance but only broad factors applicable at Reclamation's discretion. If Reclamation insists on such a sudden and radical departure, it must provide an explanation that is entirely lacking in the DEIS.

**6. The DEIS fails to consider good faith proposed alternatives from the Lower Basin.**

As noted above, Reclamation is required to evaluate "a reasonable range of alternatives" for the management of the Colorado River post-2026.<sup>8</sup> The Lower Basin submitted a suggested alternative in March of 2024, which represents a consensus of the three Lower Basin states for the post-2026 management of the Colorado River Basin, including significant reductions proposed by those three states. Despite its support from three states and the significant reductions and management criteria proposed by the Lower Basin in March 2024, the DEIS completely fails to evaluate that proposal as a reasonable alternative. Taking certain aspects of that proposal and separating them out into parts of

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<sup>5</sup> 43 U.S.C. § 1552(a)

<sup>6</sup> 35 Fed. Reg. 8951 (June 10, 1970); 70 Fed. Reg. 15873 (March 29, 2005).

<sup>7</sup> *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

<sup>8</sup> 42 U.S.C. § 4332(C)(iii)

other alternatives is not the equivalent of taking that proposal seriously as a stand-alone alternative. The DEIS is inadequate and falls short of the standards established in NEPA by failing to fully consider the Lower Basin’s March 2024 proposal as its own potential management alternative.

**7. The DEIS Evaluation of the “No Action” Alternative does not meet the requirements of NEPA.**

NEPA requires federal agencies like Reclamation to evaluate the consequences of taking no action as an alternative.<sup>9</sup> The U.S. Department of the Interior’s (DOI) own guidance on NEPA compliance provides that the “no action alternative” function as a “baseline against which the effects of a proposed action (and any action alternatives) may be measured.”<sup>10</sup> Despite this requirement and agency commitment to comparative analysis, the DEIS fails to treat the “no action alternative” as a viable baseline, in part because of the expiration of the current shortage sharing regime in the Colorado River Basin after 2026. To provide but a few examples, this requires a comparative analysis that includes the expiration of the existing regime and the subsequent implementation of LROC with required deliveries at Lee Ferry by the Upper Basin.

**8. The DEIS fails to equitably distribute the possibility and burdens of shortage across both the Upper and Lower Basins using its authority over CRSP storage in the Upper Basin.**

No alternative suggested in the DEIS proposes any mandatory reductions to the Upper Basin, with the entirety of the required cuts under all alternatives imposed on the Lower Basin, and in particular, on CAP. The ostensible rationale for this approach is that Reclamation lacks authority to impose mandatory reductions on the Upper Basin or require specific deliveries from the Upper Basin and that federally constructed storage in the Upper Basin is solely for the benefit of the Upper Basin. This rationale is wrong.

The Colorado River Storage Project Act (CRSPA) authorized the construction and operation of storage units in the Upper Basin.<sup>11</sup> The legislative history of CRSPA clearly demonstrates that the intent of the project was, in part, to satisfy the Upper Basin’s delivery obligations at Lee Ferry.<sup>12</sup> Reclamation has the authority to operate this federal infrastructure to ensure compliance with the Compact, including the Upper Basin’s delivery obligations.<sup>13</sup> Despite Reclamation’s clear authority, the DEIS fails to even

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<sup>9</sup> 42 U.S.C. § 4332(C)(iii).

<sup>10</sup> DOI Handbook of NEPA Procedures, Appendix 3, §4(2) (June 2025)

<sup>11</sup> 43 U.S.C. § 620 *et seq.* (1956).

<sup>12</sup> See, e.g., H.R. Doc. No. 83-364 (1954).

<sup>13</sup> 43 U.S.C. § 620.

consider how it might operate CRSP storage units consistent with delivery obligations under the Compact or how it might use that authority to equitably spread shortage obligations across both basins. Any approach to sharing the burden of responding to shortage on the Colorado River must include mandatory conservation and curtailments in both the Upper and the Lower Basins. In addition to owning and operating CRSP storage units, Reclamation claims emergency authorities in the DEIS to reallocate water and then disclaims any power or responsibility to make such reallocations equitably to avoid a very real potential emergency of dead pool in Lake Mead. Furthermore, while Reclamation claims emergency powers, it declines to explain in the DEIS what it would do in the case of such an emergency, including in the case of dead pool on Lake Mead. Reclamation must explain how and when it would exercise its emergency powers, and take responsibility to deploy those powers toward an equitable sharing of the burden of shortage across both basins. The DEIS fails to even consider what must be the bare minimum acceptable arrangement – if there is not enough for all, then all must take at least a little less.

While the DEIS reference to conservation pools for the Upper Basin is welcome and worthy of consideration, the DEIS provides too little evaluation of the legality of this approach and the logistical and practical obstacles to its implementation. The DEIS also fails to properly view the CRSPA reservoirs in the Upper Basin for what they are and have always been intended to be – the Upper Basin’s conservation pool and a tool for meeting its delivery obligation.

#### **9. The DEIS fails to analyze any alternatives that would protect Lake Powell.**

Reclamation has prioritized the protection of Lake Powell with a minimum elevation of 3490 feet to ensure preservation of critical infrastructure. The operation of Glen Canyon Dam should protect that infrastructure while also ensuring energy generation and physical releases of water necessary to comply with the Colorado River Compact delivery requirements. None of the alternatives evaluated in the DEIS contemplate the potential need for releases from Lake Powell at elevations below 3490 feet. The DEIS must consider such operations of Glen Canyon Dam, including engineered improvements necessary to protect and improve that structure, and the role that such releases from Lake Powell may play in ensuring delivery requirements under the Colorado River Compact. The failure of the DEIS to fully consider releases from Lake Powell and the storage units operated by Reclamation under CRSPA as a means of satisfying obligations under the Colorado River Compact make any alternatives considered under the DEIS unlawful and the DEIS inadequate under NEPA.

## **10. The DEIS incorrectly assumes CAP junior priority by ignoring constitutional limits and the national obligation to Mexico on the Colorado River.**

Any federal law that discriminates between states and treats states as anything other than equal sovereigns with each other is constitutionally suspect.<sup>14</sup> Furthermore, the anti-commandeering doctrine limits Congress' authority to commandeer state resources even with state consent.<sup>15</sup> Any portion of the Law of the River applied in a way that permanently treats Arizona in an unequal way as compared to other states violates this principle of the constitution and fundamental tenets of federalism. The DEIS fails to evaluate the risks inherent in placing one state as a junior compared to others. Instead, the DEIS appears to assume that Arizona's history of concerns regarding possible junior status, or even its acceptance of junior status in the past, somehow affirms that status and cures it of its constitutional infirmity. That is not the case, and the DEIS fails to recognize that junior priorities vis-à-vis co-equal sovereign states is unconstitutional and cannot be relied upon in any proposed alternative.

The statute upon which the DEIS relies in assuming Arizona's junior status is the very statute that confirms that such status would be unlawful. Section 202 of the CRBPA provides that the water owed to Mexico under the 1944 Rivers Treaty is a "national obligation."<sup>16</sup> This is consistent with Article III(c) of the Colorado River Compact, which requires the Upper and Lower Basins to share in the responsibility to provide for any treaty right to water held by Mexico. Any interpretation of implementation of the Law of the River that places the burden of satisfying Mexico's right on the shoulders of one state, or one part of one state (like those that rely on the CAP) is contrary to established law. Indeed, the failure to include the U.S. Department of State in the analysis of the DEIS and to effectively engage with Mexico on how our neighboring nation might share in shortage represents another critical flaw in the DEIS. Without such engagement and inclusion, it is impossible to know the nature of the national obligation to Mexico, which again, cannot be placed on the shoulders of a small group of Americans. We do not expect the state of Oklahoma and the Cherokee Nation to solely pay for the Coast Guard. We do not expect City of Detroit and the State of Michigan to only equip the U.S. Navy. These are national obligations borne by the nation, not a segment thereof. The DEIS wrongly assumes that it has the authority to ignore a national obligation created by statute, treaty, and compact, and instead turns that broad national obligation into a burden placed narrowly onto a small group of citizens in one state.

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<sup>14</sup> *Shelby County v. Holder*, 570 U.S. 529, 542-45 (2013) ("Not only do States retain sovereignty under the Constitution, there is also a 'fundamental principle of equal sovereignty' among the States.").

<sup>15</sup> *New York v. United States*, 505 U.S. 144, 182-83 (1992)

<sup>16</sup> 43 U.S.C. § 1512

## 11. Conclusion

In summary, the DEIS fails to meet the requirements of NEPA, proposes inequitable alternatives contrary to established law, and ignores in its evaluation the potential impacts of Colorado River shortage on the cities in Central Arizona, including Gilbert. Critically, the DEIS provides no information on what Reclamation would do in the event of dead pool in Lake Mead, despite noting that risk. The catastrophic environmental and economic consequences of dead pool in Lake Mead are too large and too likely for Reclamation to note but fail to even discuss its possible responses. Reclamation's most important responsibility should be to avoid dead pool and provide clear guidance on how it would respond if it were to fail to do so. The DEIS fails to meet this responsibility.

Reclamation's next most important responsibility is to lead the states of the Colorado River Basin toward an equitable, consensus-driven management regime for the river. Any viable alternative considered in the DEIS must include at least some degree of mandatory, enforceable reductions or conservation requirements for the Upper Basin and must be consistent with the Law of the River. Any acceptable evaluation of alternatives under NEPA must include careful consideration of the social, environmental, and economic impacts of shortage on the cities of Central Arizona and the ramifications to the national economy and our country's security. The DEIS fails to meet this responsibility.

Gilbert appreciates the opportunity to provide input on the DEIS and looks forward to continued collaboration with Reclamation throughout this process to ensure the final DEIS is robust and legally durable. The revised DEIS must grapple with the real-world economic and operational consequences of the contemplated alternatives so that Gilbert can continue to provide water to our existing residents and businesses and sustain our economy.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Anderson".

Scott Anderson  
Mayor  
Town of Gilbert