



Dear Bureau of Reclamation Staff:

The Town of Queen Creek submits the following comments on the Draft Environmental Impact Statement (Draft EIS) for Post-2026 Colorado River Reservoir Operations No. 20250184. Our municipality holds a **mainstream Colorado River 4th Priority entitlement** diverted at the Mark Wilmer Pumping Plant and conveyed through the Central Arizona Project (CAP) canal to our community. This supply is used to offset Active Management Area groundwater pumping and to provide a long-term, legally secure municipal water supply.

We have serious concerns regarding the legal and operational framework presented in the Draft EIS. The alternatives analyzed fail to comply with the governing Law of the River and would impose disproportionate and inequitable reductions on Arizona users, including municipalities such as ours that rely on mainstream Colorado River entitlements. In particular, our concerns center on four key issues that demonstrate how the DEIS departs from established legal requirements and sound operational principles.

## **1. The Draft EIS Fails to Include an Alternative that Complies with the 1922 Colorado River Compact**

The Draft EIS does not present any alternative that fully implements the delivery obligations of the Colorado River Compact. The Compact requires the Upper Basin to deliver to Lee Ferry at least 75 million acre-feet in any consecutive ten-year period, plus the Upper Basin's share of the Mexican Treaty obligation. Section 601 of the Colorado River Basin Project Act mandates that the United States implement the Compact. Yet each of the five alternatives analyzed in the Draft EIS assumes that the Upper Basin will not meaningfully curtail uses to ensure compliance. The alternatives instead place the operational burden almost entirely on the Lower Basin. This approach effectively nullifies the Compact's delivery framework and shifts hydrologic risk downstream in a manner inconsistent with federal law. The Final EIS must include at least one legally compliant alternative that fully accounts for Articles III(c) and III(d) of the Compact and provides a mechanism to ensure delivery obligations are met before imposing disproportionate reductions on Lower Basin users.

## **2. The DEIS Fails to Implement the Secretary's Nondiscretionary Duty to Release Water from the CRSP Initial Units**

The Draft EIS acknowledges that operations at the Colorado River Storage Project (CRSP) Initial Units may be considered, yet it does not provide clear operational guidelines to ensure releases necessary for Compact compliance at Lee Ferry. Given current reservoir conditions and projected delivery shortfalls, the DEIS must go further in defining how stored water will be released from the CRSP Initial Units to meet mandatory delivery obligations. The CRSP Initial Units—Lake Powell, Flaming Gorge, Aspinall, and Navajo—were authorized and constructed as holdover reservoirs to ensure the Upper Basin could satisfy its delivery requirements under Article III of the Colorado River Compact. Reclamation's own planning documents and congressional authorization confirm that these reservoirs were intended to store water for delivery to the Lower Basin, not to serve as exclusive storage for Upper Basin consumptive use. The United States has both the authority and a nondiscretionary duty to operate these facilities in



compliance with the Compact. Future operating guidelines must fully utilize all CRSP reservoirs as an integrated system to manage supply and demand and ensure Compact compliance at Lee Ferry. The DEIS should clearly analyze and implement operational measures that prioritize mandatory deliveries, consistent with the purpose, history, and legal framework governing the CRSP system.

### **3. Reductions Must Be Shared Basin-Wide; Shortages Cannot Be Imposed Solely on Arizona 4th Priority Rights**

The hydrology of the Colorado River Basin has fundamentally changed due to long-term aridification and climate change. The system is producing less water. All basin users must share in that reality. The Draft EIS assumes continued Upper Basin demand growth while imposing severe shortage reductions on Lower Basin users. This asymmetrical framework would force Arizona 4th Priority users—including municipal providers such as ours—to absorb a disproportionate share of system reductions. Shortages should not be borne solely by Arizona’s 4th Priority users, particularly where those reductions occur without first ensuring Upper Basin compliance with Compact delivery obligations. An equitable and legally compliant framework requires basin-wide participation in reductions before curtailing mainstream municipal supplies that support communities, economic activity, and groundwater sustainability within Arizona’s Active Management Areas.

### **4. Mainstream 4th Priority Entitlements Must Remain Operationally Distinct from CAP Water**

Our municipality’s entitlement is a **mainstream Colorado River right** that is legally distinct from CAP water, even though it is diverted at the Mark Wilmer Pumping Plant and conveyed through the CAP canal. Historically and operationally, mainstream entitlements and CAP subcontract supplies—both identified as 4th Priority—have been accounted for and administered separately. This distinction reflects their fundamentally different legal origins. The Draft EIS must preserve this operational separation. Conflating mainstream entitlements with CAP subcontract supplies would improperly expose legally distinct river rights to reductions intended for CAP allocations and undermine long-standing administrative practice. Maintaining separate accounting and administration is essential to protecting mainstream municipal rights that were developed and relied upon independently of CAP subcontract allocations. Our municipality depends on this supply to offset groundwater pumping within the Active Management Area and to ensure long-term supply reliability for our residents.

We respectfully request that the Bureau of Reclamation revise the Final EIS to incorporate a legally compliant alternative that enforces the 1922 Compact, ensures proper operation of Upper Basin reservoirs for delivery purposes, distributes reductions equitably across the basin, and maintains the distinct legal status of mainstream entitlements.

Sincerely,

A handwritten signature in black ink that reads "Bruce R. Gardner".

Bruce R. Gardner  
Town Manager