



HAVASUPAI TRIBAL COUNCIL

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March 2, 2026

Via Electronic Submission

Bureau of Reclamation
Attn: BCOO-1000
P.O. Box 61470
Boulder City, NV 89006
crbpost2026@usbr.gov

RE: Comments of the Havasupai Tribe regarding the Draft Environmental Impact Statement (DEIS) for Post-2026 Colorado River Operations

To the Bureau of Reclamation:

Greetings from the Havasupai Tribe. We are the Havasuw 'Baaja, the People of the Blue-Green Waters. We have coexisted with the natural resources in the Grand Canyon including, most importantly, the water that sustains our livelihood, and is at the center of our culture, religion, and spirituality, since the beginning of time itself. Our historical connection to these lands and waters was recognized as one of the reasons for creating the Baaj Nwaavjo I'tah Kukveni Grand Canyon National Monument. We appreciate the opportunity to provide these comments to you on the DEIS.

Statement of Tribal Interest in the DEIS and Colorado River Matters

Since the beginning of time, our ancestors practiced seasonal migration that relied on the hydrological connectivity of the region. In the summers, we utilized the flows of Havasu Creek to engineer intricate irrigation systems on the canyon floor, cultivating corn, beans, squash, and melons in the desert heat. In the winters, we ascended to the plateau, relying on the springs, seeps, and catchment basins (tanks) scattered across these vast lands to hunt and gather to sustain us over the winters. We have deep cultural, spiritual, and religious connections to Havasu Creek, and the springs and seeps on our reservation lands and throughout the Coconino Plateau that our members have consistently visited and worshiped up through this day.

While our reservation lands are not on the Colorado River and, as a result, we do not receive Colorado River supplies, we are physically connected to the river through our groundwater from two separate aquifers that create seeps and springs throughout our reservation lands and our larger homelands. It is also these aquifers that feed Havasu Creek, the source of water for our village

and the natural environment that sustains all life in our Canyon. Havasu Creek flows into the Colorado River in the Grand Canyon National Park and provides approximately 50,000 acre-feet of inflows on an annual basis to the Colorado River for use in the Lower Basin. So, while we do not receive water from Reclamation dams, we are still very much connected to the Colorado River Basin.

In addition, Havasu Creek is of significance for the federally protected and endangered Humpback Chub. According to National Parks Service (NPS, 2015; 2018) and Mathis and Omana Smith (2011), there are presently efforts to introduce Humpback Chub into the area around Havasu Creek, which is of suitable water quality and temperature for the Humpback Chub to spawn. Humpback Chub have been released in the creek since 2011 and have resulted in Humpback Chub successfully spawning in Havasu Creek (NPS, 2013).

Our Water Rights

The United States holds in trust senior, unquantified and unadjudicated water rights in trust for the Tribe and a federal water rights negotiating team has been formed. Our water rights are for Havasu Creek and the groundwater from the Coconino Plateau that feeds the creek. In addition, we hold water rights for seeps and springs on our reservation lands, traditional use areas within Grand Canyon National Park, as well as on surrounding federal lands.

In 1975, when Congress expanded our reservation lands in the Grand Canyon Enlargement Act, it included the requirement that our lands remain forever wild:

The lands hereby transferred to the tribe shall remain forever wild and no uses shall be permitted under the plan which detract from the existing scenic and natural values of such lands. P.L. 93-610, Section 10(b)(7).

Consistent with this requirement, no commercial, timber, or mining development is allowed on our lands and they are to be managed by the Secretary consistent with park uses and values. P.L. 93-610. Section 10(b)(4)(5).

The result is that our water rights, held in trust by the Secretary are unique in that they are necessary to keep our lands forever wild. Simply put, the Secretary has an obligation to prevent actions outside of our reservation that affect our water rights.

Impacts on our groundwater from diminished surface flows are not analyzed in the DEIS

As restrictions on surface supplies from the Colorado River are enacted, there will be more stress placed on groundwater resources, including, specifically, the Coconino Plateau.¹ Disappointingly, the DEIS fails to acknowledge and analyze these impacts:

¹ Bills, D.J., Flynn, M.E., and Monroe, S.A., 2007, Hydrogeology of the Coconino Plateau and adjacent areas, Coconino and Yavapai Counties, Arizona (ver. 1.1, March 2016): U.S. Geological Survey Scientific Investigations Report 2005– 5222, 101 p., 4 plates, <http://dx.doi.org/10.3133/sir20055222>. See page 45:

During the drought in the mid- to late-1970s, which caused a significant reduction in the amount of readily available surface water and perched ground water, withdrawals from C aquifer and Redwall-Muav aquifer wells increased nearly twofold; and

Secondary impacts on groundwater are not considered in this analysis (e.g., if actions under the various alternatives would result in more groundwater pumping occurring in order to supplement decreased supply).

DEIS at 3-98.

We realize that recent case law calls into question the obligation of Reclamation to analyze effects from the action that are farther in time and potentially subject to additional authorizations in the future. *Seven Counties Infrastructure Coalition v Eagle County*, 705 U.S. 168 (2025). We believe the facts on the ground are distinguishable from *Seven Counties*, however. In *Seven Counties*, at issue was approval of an 88 mile long rail line in Utah that would service oil fields in the Uintah Basin and allow for pumped oil to be placed on the national rail network. The approval was for the rail line only, not an oil well or drilling permit and the approving agency had no authority or control over potential future oil and gas development in the basin. In addition, the future projects would be “subject to the approval processes of other federal, state, local, and tribal agencies.” For those reasons, the Court held that there was no need to consider how the rail line in Utah could have effects on the environment in Louisiana and Texas due to increased oil refinery production. Specifically, the Court was concerned with requiring an agency to undertake an analysis on the downstream effects of an action that, by any reasonable standard, are far removed from the action under consideration.

The facts here are fundamentally different, however. At issue is a project for determining water use in a 7 state region (and Mexico) from dams throughout the Basin that are controlled by the Secretary. Pumping on the Coconino Plateau in Northern Arizona will, over time, affect flows in Havasu Creek, which as noted above, flows directly into the Colorado River, and ultimately Lake Mead, which are controlled by the Secretary. Consequently, our issue is not the same as *Seven Counties* where the issue was whether to analyze impacts in the Gulf States from actions in the Mountain west. Here, these actions are within the same Basin and the Secretary is at the beginning and end of the chain of causation. In addition, the Secretary as trustee, has an obligation to protect our water rights and once groundwater depletions occur, they are gone. As noted above, groundwater supplies are already overstressed due to lack of surface water. Moreover, unlike *Seven Counties*, where the Court noted there would be future regulatory approvals necessary before the oil transported by rail would be refined, there are no such additional approvals present here, as groundwater in this part of Arizona is not regulated. As soon as surface supplies are reduced, our groundwater resources will be at risk.

Finally, as stated in the Grand Canyon Protection Act, our lands must remain “forever wild.” How can our lands remain forever wild if our groundwater, our springs, our creek and our waterfalls are severely impacted? The stakes for our Tribe and our future members are too high for a cramped reading on the requirements of NEPA. For these reasons, Reclamation must analyze the connection between lesser amounts of Colorado River surface flows in Arizona and additional groundwater pumping on the Coconino Plateau.

As the demand for water increases in the western part of the study area, additional wells are being developed in the Redwall-Muav aquifer as the only viable source of ground-water supply owing to the lack of other reliable surface-water and ground-water resources in these areas.

The DEIS fails to present any Alternative that adheres to the Colorado River Compact, in direct contravention of federal law requiring the Bureau of Reclamation to implement the Colorado River Compact

The Colorado River Compact mandates that the Upper Basin has an obligation to deliver at least 82.5 million acre-feet of Colorado River water to the Lower Basin in any 10-year period.² Section 601 of the Colorado River Basin Project Act (CRBPA) mandates that the United States shall implement the Colorado River Compact. Further, the DEIS recognizes the need to adhere to the Law of the River, and particularly the Colorado River Compact. The DEIS, however, does not present an Alternative that would implement the Colorado River Compact. Each of the five proposed Alternatives wrongly assumes that the Upper Basin states have no duty to comply with their delivery obligations and would make no meaningful reductions in usage and therefore requires the Lower Basin States to accept disproportionate and inequitable reductions that contravene the Lower Basin's rights under the Compact and the Law of the River. The Draft EIS also ignores that the Lower Basin States can and will seek enforcement of the Compact should the Upper Basin fail to comply with its obligations.

Each of the Alternatives also fails to comply with the requirements in § 602(a) of the CRBPA to operate federal infrastructure to ensure Compact deliveries to the Lower Basin are made. The United States also must operate the Upper Initial Units (UIUs) of the Colorado River Storage Project reservoirs to release water to the Lower Basin to fulfill the United States' legal requirement to implement the Colorado River Compact. But the Draft EIS presents no Alternative that even considers allowing for the possibility of substantial releases from the UIUs for the purpose of satisfying requirements of the Colorado River Compact.

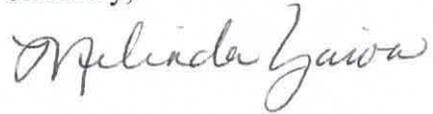
The DEIS assumes continued Upper Basin water demand growth while the federal government implements severe shortage reductions to Lower Basin water users

The Draft EIS fails to contemplate any water use reductions in the Upper Basin, and in fact assumes that the Upper Basin water uses will increase. The effects of the proposed alternatives will thus fall disproportionately on the Lower Basin. As described above, the United States must ensure that the Upper Basin States are meeting their 1922 Compact delivery obligations (including through a Compact call and curtailment, if necessary) before disproportionately reducing Lower Basin use. The United States should also consider potential outcomes if the Upper Basin maintains its existing demands, without growth, recognizing that major infrastructure projects to support increased demands are less likely as the water availability is less reliable.

² To be more precise, the Colorado River Compact mandates delivery to Lee Ferry of (a) at least half of the U.S. obligation pursuant to the Treaty with Mexico (750,000 acre-feet per year in a normal year) and (b) 75 million acre-feet of Colorado River water to the Lower Basin in any 10-year period. Arizona asserts that the obligation with respect to deliveries from Mexico should include the losses associated with the Upper Basin's portion of the delivery.

If you have any questions, please contact our General Counsel Denten Robinson at denten@drlawfirm.com or John Bezdek at jbezdek@waterpowerlaw.com.

Sincerely,

A handwritten signature in cursive script that reads "Melinda Yaiva".

Melinda Yaiva
Chairwoman
Havasupai Tribe

cc: Havasupai Tribal Council
Denten Robinson, General Counsel
John Bezdek, Water Counsel