



## SAN CARLOS APACHE TRIBE

Department of Justice

Post Office Box 40

San Carlos, Arizona 85550

Tel. (928) 475-3344 ❖ Fax (928) 475-3348 ❖ E-Mail [alex.ritchie@scat-nsn.gov](mailto:alex.ritchie@scat-nsn.gov)

---

March 2, 2026

### *Via E-mail and U.S. Postal Services*

Bureau of Reclamation  
Attn: BCOO-1000  
P.O. Box 61470  
Boulder City, NV 89006  
E-M: [crbpost2026@usbr.gov](mailto:crbpost2026@usbr.gov)

Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026  
Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No.  
20250184, 91 F.R. 2131 (January 16, 2026)

To Whom It May Concern:

Dagot'ee (Greetings). On behalf of the over 17,400 members of the San Carlos Apache Tribe ("Tribe"), please consider the following comments on the Draft Environmental Impact Statement ("DEIS") for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead.

Water challenges in the West have been constant for decades. As we grapple with plans for the management of the Colorado River post-2026, we again face "the gravity of the Southwest's water problems; the inability of local groups or individual States to deal with these enormous problems; [and] the continued failure of the States to agree on how to conserve and divide the waters;"<sup>1</sup> Also constant are the United States' treaty<sup>2</sup> and trust responsibilities<sup>3</sup> and express contractual obligations<sup>4</sup> to ensure that federally recognized Indian tribes receive the resources necessary for the tribes and their members to thrive in their permanent tribal

---

<sup>1</sup> *Arizona v. California*, 373 U.S. 546, 552 (1963).

<sup>2</sup> *See e.g.*, Treaty with the Apache, July 1, 1852, 10 Stat. 979.

<sup>3</sup> *See, e.g.*, San Carlos Apache Tribe Water Rights Settlement Act of 1992, Pub. L. No. 102-575, as amended; San Carlos Apache Tribe Water Rights Settlement Agreement, March 30, 1999.

<sup>4</sup> *See, e.g.*, Central Arizona Project Indian Water Delivery Contract between the United States and the San Carlos Apache Tribe (Dec. 11, 1980), as amended.

## **Bureau of Reclamation**

*Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No. 20250184, 91 F.R. 2131 (January 16, 2026)*

March 2, 2026

Page 2 of 7

---

homelands. Ensuring tribes continue to benefit from their Colorado River water allocations is necessary to fulfill the United States' obligations, though the DEIS fails to address the United States' treaty and trust responsibilities to tribes and its obligations under contracts between tribes and the Secretary of the Interior as it manages the Colorado River.

### **I. The San Carlos Apache Tribe's CAP Water**

Under the Tribe's Central Arizona Project ("CAP") Indian Water Delivery Contract, dated December 11, 1980, as amended, each year the Tribe is entitled to:

- 12,700 acre-feet of CAP Indian Priority water to support the Tribe's homeland<sup>5</sup>;
- Up to 33,300 acre-feet of CAP Indian Priority water, to the extent it is not required for delivery of up to 75,000 acre-feet (50,000 acre-feet of Colorado River mainstream water and up to 25,000 acre-feet of CAP water) to the southeast corner of the Ak-Chin Indian Reservation<sup>6</sup>;
- 14,665 acre-feet of Municipal and Industrial (M&I) Priority CAP water previously allocated to Phelps Dodge Corporation<sup>7</sup>; and
- 3,480 acre-feet of M&I Priority CAP water previously allocated to the City of Globe, Arizona.<sup>8</sup>

Although the Tribe has held these rights for decades, the CAP canal has never delivered water to the San Carlos Reservation. This is because, at its nearest point, the CAP canal remains more than 35 miles away from the reservation's western border. Congress intended for the Tribe to receive CAP water by exchange with water users which have access to the CAP canal and water rights to rivers that flow through the San Carlos Reservation. Until long overdue infrastructure is built to provide the Tribe access to water consistent with its rights, the Tribe must rely on its ability to leverage its rights in more creative ways. Currently, the Tribe leases a portion of its rights to parties that have been provided physical access to the CAP canal and at the request of the United States, the Tribe allows its remaining thousands of acre-feet of CAP water to be reserved in Lake Mead each year, in aid of the United States' sorely needed conservation efforts..

### **II. The United States' Obligation to Honor Tribal Water Rights**

---

<sup>5</sup> *Id.*

<sup>6</sup> San Carlos Apache Tribe Water Rights Act of 1992, 106 Stat. 4742, as amended ("1992 Act").

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

## **Bureau of Reclamation**

*Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No. 20250184, 91 F.R. 2131 (January 16, 2026)*

March 2, 2026

Page 3 of 7

---

The Tribe's rights, whether to receive physical water or for purposes of conservation and exchange, are essential to the Tribe's sovereignty and self-determination, and are a cornerstone of the United States' trust obligations to the Tribe. To meet those obligations, the United States' post-2026 operation of Lakes Powell and Mead must continue to provide the flexibility necessary for tribes to choose to receive their CAP water or benefit from their ability to conserve water resources by forgoing their entitlements.

As such, the No Action and Basic Coordination Alternatives are untenable. The Tribe expects that the United States will instead lead the basin states toward a solution that permits, encourages, and compensates system conservation commitments for decades to come. The United States' preferred alternative in the Final Environmental Impact Statement must include conservation mechanisms through which tribes can continue to benefit from their rights. This is particularly true for those, like the San Carlos Apache Tribe, whose rights are currently meaningless without such mechanisms in place. The Tribe already lacks access to CAP water itself—water intended to sustain its homeland. Depriving the Tribe of its ability to leverage its rights to invest in its reservation and its people would betray the United States' obligations.

Furthermore, flexibility incentivizes conservation, which is essential to protect federal infrastructure and ensure broad regional resiliency. Tribes, which hold the most senior rights to access and appropriate water in the region, have already proven essential partners in the United States' conservation efforts, and the United States must provide the means to continue those efforts.

### **III. The Federal Government Must Protect Tribal Water**

The DEIS does not adequately account for the relative priority of all users' water rights. While Arizona fights for scraps as the so-called "fourth priority" user, CAP plays a central role in protecting the rights of 14 federally recognized tribes with at least partially established or adjudicated water rights, and the existing but not yet resolved rights of an additional 8 tribes. These tribes are entitled to water rights reserved for their benefit at the time their reservations were established by Congress, and as far back as time immemorial. The United States cannot treat those rights as inferior or equivalent to the rights of other users whose subsequent rights are not tied to the United States' trust or treaty obligations.

The Basic Coordination Alternative, as the default plan in the event the basin states cannot reach an agreement, focuses on the United States' obligation and right to protect its infrastructure throughout the basin. It conspicuously fails, however, to adequately consider the United States' pressing obligations to protect tribes' senior water rights. Regardless of any agreement reached by the basin states, the United States must adopt guidelines that take all steps

## **Bureau of Reclamation**

*Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No. 20250184, 91 F.R. 2131 (January 16, 2026)*

March 2, 2026

Page 4 of 7

---

necessary to protect tribes, as trust beneficiaries, in addition to the federal infrastructure upon which tribes and other users rely.

### **IV. The Federal Government Must Manage the Colorado River to Provide for All Required Flows to Reach the Lower Basin**

In its current form, the DEIS does not address the Colorado River Basin water which, under current management, does not reach the Lower Basin because it is stored in the Upper Basin (or evaporated while in storage), or delivered for use outside the Colorado River Basin. To meet its obligations and responsibilities to Lower Basin tribes, the United States must manage the Colorado River to ensure that all water which should reach the Lower Basin does so.

First, the DEIS does not address the management of storage in the Upper Basin which affects the quantity of water available to the Lower Basin users. The retention of water in storage ponds, irrigation ponds, stocktanks, and other reservoirs in the Upper Basin deprives contributions to the natural flow of the Colorado River and therefore deprives Lower Basin users of water. For example, according to the Bureau of Reclamation's website, Colorado's "Ruedi Dam and Reservoir provide storage for replacement and regulation of approximately 100,000 acre-feet of water for the western slope users. This water will be used for irrigation and municipal benefits, and recreation and fish and wildlife enhancement."<sup>9</sup> The Final EIS should address the retention of water in the Upper Basin and resulting evaporation from such storage as a part of the Upper Basin states' Colorado River rights. The Final EIS should recognize that technical reporting of storage quantities and water pumped should be mandatory for all Upper Basin state users. Under the Law of the River and the Colorado River Compact, technically accurate accounting and reporting of the quantity of all water pumped from Upper Basin wells is mandatory. The Final EIS should recognize that self-reporting is not a sufficient method of accounting for the volume of water stored, and that reporting must distinguish quantities of water retained for annual use and quantities of water retained for longer timeframes (e.g. storage of a three-year supply). Any quantities of water which are in excess of the quantity which has been accurately accounted for as the Upper Basin's share of Colorado River water must be accounted for and released to the Lower Basin.

Second, the DEIS does not address the water which, under current management, is removed from the Colorado River Basin before it can reach the Lower Basin. For example, the Frying Pan-Arkansas Project in Colorado diverts water from the Colorado River system and delivers it for use on the eastern side of the continental divide – outside of the Colorado River Basin. The project was designed to “provide an average annual diversion of 69,200 acre-feet of

---

<sup>9</sup> See <https://usbr.gov/projects/index.php?id=460> (last visited March 2, 2026).

## **Bureau of Reclamation**

*Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No. 20250184, 91 F.R. 2131 (January 16, 2026)*

March 2, 2026

Page 5 of 7

---

water from the western slope to the eastern slope.”<sup>10</sup> This water should be considered unnecessary to meet Colorado’s requirements from the Colorado River, and therefore should be retained in the Colorado River system. Delivery of this water outside the Colorado River basin deprives the Colorado River of water which would otherwise flow to the Lower Basin.

### **V. Addressing the Tribe’s Concerns**

As a part of its Final Environmental Impact Statement (“FEIS”), Reclamation must revise its alternatives to account for its trust and treaty responsibilities and its contractual obligations to tribes, through which the United States has a fundamental duty to ensure tribes retain access to their water rights and any benefits derived from those rights. Those federal duties and protections are unique—they do not apply to the rights of other water users. Significantly, this requires that all alternatives provide for cuts to other users before tribal rights are cut, and that tribes may be compensated for any water that cannot be used.

Furthermore, in its current form, the DEIS does not expressly analyze how the post-2026 operational guideline alternatives specifically affect the San Carlos Apache Tribe with regard to plans for on-Reservation delivery and use of CAP exchange water, continued off-reservation deliveries of leased CAP and exchange water, and the Tribe’s continued participation in Reclamation’s Lower Colorado Conservation Program.

To address the Tribe’s concerns regarding the practical effect of the DEIS, the Department of the Interior (“Interior”) and Bureau of Reclamation (“Reclamation”) must take the following steps:

1. Interior and Reclamation should schedule ongoing government-to-government meetings with San Carlos Apache Tribe leadership and commit to a Tribe-specific technical workplan and data sharing protocol before the Final EIS is completed. We look forward to our first consultation with Interior and Reclamation which has been scheduled for March 6, 2026.
2. Reclamation should prepare a supplement to the DEIS, or otherwise report to the Tribe, to provide the following information:
  - a. Explain how each alternative protects the Tribe’s rights in accordance with the United States’ trust responsibilities. In particular, identify actions Interior will take to affirmatively protect the Tribe’s rights during times of

---

<sup>10</sup> *Id.*

**Bureau of Reclamation**

*Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No. 20250184, 91 F.R. 2131 (January 16, 2026)*

March 2, 2026

Page 6 of 7

---

shortage and emergency operations intended to avoid dead-pool water levels in Lake Powell and Lake Mead.

- b. Analyze and disclose how the alternatives for post-2026 operations could potentially affect (i) the Tribe’s ability to generate revenue through the lease of its CAP water and by participating in Reclamation’s Lower Colorado Conservation Program; (ii) the Tribe’s ability to store and use CAP exchange water on the San Carlos Reservation, and (iii) all other foreseeable economic impacts relevant to the Tribe’s self-determination and sovereignty.
3. Reclamation should address certain Upper Basin actions which diminish the flow of water from the Upper Basin to the Lower Basin.
- a. The FEIS should address the management of storage and pumping from wells in the Upper Basin which cumulatively affects the quantity of water available to the Lower Basin users.
  - b. The FEIS should address the water which, under current management, is removed from the Colorado River system before it can reach the Lower Basin.

**VI. Conclusion**

We look forward to meeting with you to discuss these concerns, and to you incorporating our feedback into your Final Environmental Impact Statement.

As we say in our Apache language, Ahi’yi’e (thank you) for considering our comments.

Sincerely,

SAN CARLOS APACHE TRIBE



Terry Rambler  
Chairman

**Bureau of Reclamation**

*Re: Comments of the San Carlos Apache Tribe on the DEIS for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, EIS No. 20250184, 91 F.R. 2131 (January 16, 2026)*

March 2, 2026

Page 7 of 7

---

Cc: Alexander Smith, Area Mgr., BOR, [alexandersmith@usbr.gov](mailto:alexandersmith@usbr.gov)  
David Palumbo, Dep. Comm. Of Op., BOR, [dpalumbo@usbr.gov](mailto:dpalumbo@usbr.gov)

San Carlos Apache Tribe  
Tao Etpison, Vice Chairman  
San Carlos Council Members  
Christabelle Mull, GM  
A.B. Ritchie, AG, DOJ  
Water Rights Team