

SAN LUIS REY INDIAN WATER AUTHORITY

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February 27, 2026

Honorable Scott J. Cameron
Acting Commissioner
U.S. Bureau of Reclamation
Attn: BCOO-1000
P.O. Box 61470
Boulder City, NV 89006

Submitted by email to: crbpost2026@usbr.gov

Re: San Luis Rey River Indian Water Authority's Comments on the Bureau of Reclamation's January 2026 *Draft* Environmental Impact Statement for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead

Dear Acting Commissioner Cameron:

These comments on the Bureau of Reclamation's January 2026 *Draft* Environmental Impact Statement for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead are submitted on behalf of five federally recognized Indian Tribes in northern San Diego County, California – the La Jolla Band of Luiseño Indians, the Rincon Band of Luiseño Indians, the San Pasqual Band of Mission Indians, the Pauma Band of Luiseño Mission Indians, and the Pala Band of Mission Indians (Bands) – through the San Luis Rey River Indian Water Authority (SLRIWA).

I. The San Luis Rey Indian Water Rights Settlement

The SLRIWA was established by the Bands as a permanent intertribal entity to act on behalf of the Bands in the implementation of the San Luis Rey Indian Water Rights Settlement. The authority of the SLRIWA was approved and recognized by Congress at Section 107 of the San Luis Rey Indian Water Rights Settlement Act, Public Law 100-675, as amended (San Luis Rey Settlement Act). Pursuant to the San Luis Rey Settlement Act at Section 107(b), the SLRIWA “shall be treated as an Indian entity under Federal law with which the United States has a trust

SAN LUIS REY
Indian Water Authority

*A Federally Chartered Government Agency Comprised of
La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands*

relationship.”¹

Although the Bands’ Reservations are outside of the Colorado River Basin, the SLRIWA and the Bands, along with our San Luis Rey Settlement partners – the City of Escondido and the Vista Irrigation District – have a stake in what happens to the Colorado River. The San Luis Rey Settlement provides 16,000 acre-feet per year of conserved Colorado River water from the lining of the All-American Canal and its Coachella Branch for the benefit of the San Luis Rey Settlement Parties. As part of the resolution of a dispute over San Luis Rey River water that began more than a century ago, the Secretary has a permanent trust responsibility to the Bands to provide a supply of “Supplemental Water” for the San Luis Rey Settlement. Pursuant to the San Luis Rey Settlement Act, as amended by Public Law 106-377, App. B., § 211 (October 27, 2000):

Notwithstanding any other provision of law, in order to fulfill the trust responsibility to the Bands, the Secretary, acting through the Commissioner of Reclamation, ***shall permanently furnish annually ... 16,000 acre-feet of the [Colorado River] water*** conserved [by the lining projects] for the benefit of the Bands and the local entities in accordance with [the San Luis Rey Settlement].

(Emphasis added).

The Secretary and the Assistant Attorney General executed the San Luis Rey Indian Water Rights Settlement Agreement on December 22, 2014, and January 30, 2015, respectively. Section 4.1 of the Settlement Agreement provides that: “As authorized and directed in the Settlement Act, the United States agrees to deliver 16,000 acre-feet per year of Supplemental Water to the [the San Luis Rey Settlement Parties].”

On December 16, 2016, Congress approved and ratified the Settlement Agreement among the San Luis Rey Settlement Parties and the United States. *See* San Luis Rey Settlement Agreement Implementation Act of 2016, WIIN Act of 2016, PL 114-322, § 3605; S.612 — 114th Congress (2015-2016). The Settlement Agreement was also approved by the United States District Court for the Southern District of California² and the Federal Energy Regulatory Commission.

The 16,000 acre-feet per year of conserved Colorado River water provided to the San Luis Rey Settlement Parties pursuant to an Act of Congress and signed Settlement Agreement with the United States cannot be reduced or altered through the current administrative process. The water provided under the San Luis Rey Settlement is outside the scope of any post-2026 operational guidelines and strategies for Lake Mead and Lake Powell.

¹ While the SLRIWA is authorized to act on behalf of the Bands with respect to the San Luis Rey Settlement, each of the five Bands is a federally recognized Indian Tribe with inherent sovereignty and a trust relationship with the United States.

² *See Rincon Band of Mission Indians, et al. v. Escondido Mutual Water Company, et al.*, U.S. Dist. Ct., S.D. Cal. No. 69-217-S; *Rincon Band of Mission Indians, et al., v. Vista Irrigation District*, U.S. Dist. Ct., S.D. Cal. No 72-276-S; and *United States of America, v. Escondido Mutual Water Company and Vista Irrigation District*, U.S. Dist. Ct., S.D. Cal. No 72-271-S.

The SLRIWA previously submitted Comments on the Bureau of Reclamation's Notice of Intent to Prepare an Environmental Impact Statement and Notice to Solicit Comments and Hold Public Scoping Meetings on the Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead on August 14, 2023, and on Reclamation's Revised Draft Supplemental Environmental Impact Statement for Near-term Colorado River Operations on December 9, 2023. As set forth in those Comments and reiterated here, the United States' ongoing trust responsibility to provide 16,000 acre-feet per year of conserved Colorado River water under the San Luis Rey Settlement Act is not subject to mandatory reduction by Reclamation through the Draft EIS process. The Supplemental Water has been permanently allocated for the benefit of the San Luis Rey Settlement parties in a Settlement approved by Congress, signed by the Secretary of the Interior and the Attorney General of the United States, and upheld and approved in the United States District Court and the Federal Energy Regulatory Commission.

After decades of litigation, the San Luis Rey Settlement Parties have entered a new phase of implementation since the Settlement took effect on May 17, 2017. We are working cooperatively to protect and manage our shared Settlement resources, including the Supplemental Water. This Settlement was made possible by a major conservation measure to reduce California's use of Colorado River water. The final EIS should make clear that the conserved Colorado River provided under the San Luis Rey Settlement is not subject to involuntary reduction.

The Congressional mandate and trust obligation to permanently furnish 16,000 acre-feet per year of conserved Colorado River water for the San Luis Rey Settlement cannot – and must not – be diminished or affected by the final EIS, Record of Decision, or the Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead.

II. Reclamation Must Upheld Its Trust Responsibility to Tribes in Developing Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead.

Any new framework for the Colorado River must incorporate and uphold the United States' trust responsibility to protect Tribal water rights and must respect Tribal sovereignty. Tribal Nations must be included as active participants in the decision-making process, and not just stakeholders. Tribes were left out of the room when the 1922 Compact was negotiated and signed. Tribal water rights were an afterthought, despite the earlier Supreme Court decision in *Winters v. United States*, 207 U.S. 564 (1908), establishing and recognizing that Tribes have a federally reserved right to sufficient water to fulfill the purposes of their Reservations, with priority dates that often predate statehood. That legacy of Tribal exclusion cannot continue in this next era of state and federal decision-making. The SLRIWA appreciates Reclamation's efforts to engage in meaningful consultation with Tribes in the DEIS process and urges Reclamation to ensure that Tribal interests remain central to the Post-2026 Planning.

Existing Tribal water rights settlements involving the Colorado River must be honored. Tribes with senior water rights by Decree, such as in *Arizona v. California*, 373 U.S. 546 (1963), must be shielded from any involuntary reduction in their water resources in the Colorado River Basin. Similarly, the five Tribes in the San Luis Rey Settlement – who have water rights

recognized by Act of Congress and have signed agreements with the United States for the permanent delivery of conserved Colorado River water – must be protected. The 16,000 acre-feet per year of Supplemental Water for the San Luis Rey Settlement is not a discretionary allocation; it is a permanent legal right that cannot be diminished by administrative action. The Final EIS and Record of Decision should expressly recognize this limitation.

Each Tribe is a sovereign nation with unique water rights that must be analyzed separately. Long-term management decisions must safeguard Tribal interests, including for Tribes with settlements, and for Tribes that still have unresolved or unquantified water rights claims. In seeking solutions for the River Post-2026, Reclamation must not involuntarily reallocate Tribal water supplies or disrupt Tribal water rights without compensation and agreement.

While the SLRIWA appreciates the extensive efforts to incorporate hydrologic modeling in the draft EIS, that modeling is inaccurate. Decisions that rely on inaccurate modeling are arbitrary and capricious. Turning a blind eye to the fact that the water that isn't available, either physically or legally, repeats the fatal errors of the 1922 Compact. BOR should model a scenario that assumes Tribes use their water rights, and that is hydrologically accurate given the megadrought. The SLRIWA respectfully submits that the 16,000 acre-feet per year of conserved Colorado River water should be specifically excluded from any future hydrologic modeling under the final EIS to provide clarity and accuracy and to ensure that those water rights are protected.

III. Creative Solutions, Adaptive Management, and Ongoing Stewardship of the River Are Essential.

The SLRIWA appreciates Reclamation's efforts to identify a broad range of alternatives. We encourage additional creative solutions to River management, including intertribal and interstate transfers. Flexible strategies will enable Basin water users to adapt to evolving hydrologic and operational conditions. They may also play an important role in bringing Tribal Nations to the table when it comes to long-term solutions. There is little doubt that the hydrologic realities in this Basin are rendering meaningless the political boundaries that divide it, and that we need to work together. To this end, we are hopeful that the Basin states – in meaningful coordination and consultation with the sovereign Tribal Nations – can reach a consensus proposal that protects and preserves the Colorado River for future generations.

While Tribes have distinct cultures and cultural landscapes, many Tribes recognize the inherent value in protecting and preserving our waters and the related ecosystems. The long-term, sustainable stewardship of those waters and ecosystems for future generations is a solemn obligation. Viewing the Colorado River and other watersheds through this lens is a paradigm shift. It is a shift we all must make.

Thank you for your consideration of these comments.

Respectfully submitted,



Stephen W. Cope, President
San Luis Rey Indian Water Authority

Cc: San Luis Rey Indian Water Authority Board of Directors
Andrea Travnicek, Assistant Secretary for Water and Science
David Palumbo, Principal Deputy Commissioner
Carly Jerla, Senior Water Resources Program Manager
Doug Burgum, Secretary of the Interior
William (Billy) Kirkland, Assistant Secretary – Indian Affairs
Gregory Zerzan, Acting Solicitor, Department of the Interior