



**SAN XAVIER DISTRICT**  
**OF THE**  
**TOHONO O' ODHAM NATION**  
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**Re:** Comments of the San Xavier District, Tohono O'odham Nation, on the Post-2026 Colorado River Reservoir Operations Draft Environmental Impact Statement (January 9, 2026)

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## **I. INTRODUCTION AND IDENTITY OF SAN XAVIER DISTRICT**

These comments are submitted on behalf of the San Xavier District ("SXD" or "District") of the Tohono O'odham Nation ("Nation") in response to the Bureau of Reclamation's ("Reclamation") Post-2026 Colorado River Reservoir Operations Draft Environmental Impact Statement ("DEIS"), published January 9, 2026.

The San Xavier District is one of eleven political subdivisions of the Tohono O'odham Nation. The District occupies the 71,000-acre San Xavier Indian Reservation located immediately southwest of Tucson in Pima County, Arizona. The Santa Cruz River traverses the Reservation. The Reservation encompasses the traditional O'odham Village of Wa:k - a community whose name translates as 'place where the water goes under' - a traditional O'odham farming community that has occupied and irrigated this land since time immemorial. Wa:k is the cultural, agricultural, and spiritual center of the San Xavier Reservation community.

The San Xavier District is not an abstract administrative entity commenting on a policy matter. The District's water supply, its agricultural heritage, its groundwater security, its legal rights under federal law, and its cultural survival are directly and existentially affected by the alternatives analyzed in this DEIS. The District respectfully urges that this Comment be made part of the

administrative record and that Reclamation provide a written response in the Final EIS to each substantive issue raised herein.

## **II. BACKGROUND: THE DESTRUCTION OF THE SAN XAVIER DISTRICT'S WATER SUPPLY AND THE 2004–2007 SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT**

### **A. Depletion of the Santa Cruz River and Reservation Groundwater**

From the 1950s through the early 2000s, the city of Tucson, the Asarco Mining Company, the Farmers Investment Company - all adjacent to the San Xavier Reservation - and approximately 1,800 other groundwater pumpers in the Tucson Basin depleted the water table beneath the Reservation to supply their municipal, industrial, and agricultural needs. The city of Tucson deliberately constructed its Southside Wellfield along the eastern boundary of the Reservation, knowing that pumping would deplete the water table beneath the Reservation. The formerly perennial Santa Cruz River - which supplied the Wa:k community with irrigation and domestic water from time immemorial - was rendered ephemeral, flowing only during intense storm events. The consequences were devastating. The San Xavier Cooperative Farm, which historically irrigated and farmed 2,300 acres, was forced to cease operations in the early 1980s when its irrigation wells went dry. More than 4,000 acres of irreplaceable riparian cottonwood and mesquite bosque along the Santa Cruz River - which supplied the Wa:k community with construction materials, firewood, edible mesquite beans, and critical wildlife habitat - were dried up and destroyed. In the southeastern portion of the Reservation, the Asarco Mining Company's unlined tailings ponds contaminated remaining groundwater with sulfate, destroying additional groundwater supplies.

More than 41,000 acres of the San Xavier Indian Reservation were allotted in 1891 as individual Indian trust allotments pursuant to the General Allotment Act of 1887 (Dawes Act), 24 Stat. 388 (Feb. 8, 1887), 25 U.S.C. § 331 et seq., including all the Reservation's irrigable lands. Each allotment owner held an individual appurtenant Indian Winters Doctrine reserved water right protected by the property provisions of the Fifth Amendment to the United States Constitution.

### **B. The Southern Arizona Water Rights Settlement Act Amendments and Its Federal Obligations**

Congress enacted a putative Papago tribal water rights settlement in 1982, the Southern Arizona Water Rights Settlement Act ("SAWRSA"), 96 Stat. 1261 (December 12, 1982). The SXD and the San Xavier Allottees Association ("SXAA") successfully opposed implementation of the Act because, although it provided 66,000 AFY of Central Arizona Project (CAP) water to the Papago Tribe (now Tohono O'odham Nation) and funded the rehabilitation and extension of the Cooperative Farm, it did not protect or ensure a replacement water supply to the San Xavier Reservation. Consequently, the SXD and SXAA successfully forced renegotiation of the settlement.

In 2006, the individual Indian trust allotment landowners on the San Xavier Reservation, the San Xavier District, the San Xavier Allottees Association, and the Tohono O'odham Nation agreed

with the defendants to settle class action Indian water rights litigation in *United States et al. v. the City of Tucson et al.*, CV 75-39 TUC FRZ (consolidated for administrative purposes with *Papago Tribe v. City of Tucson, et al.*, CV 75-051, and *Felicia Alvarez et al. v. City of Tucson, et al.*, CV 93-039 TUC FRZ) in return for benefits provided by the Southern Arizona Water Rights Settlement Amendments Act of 2004, P.L. 108-451, 118 Stat. 3536 (December 10, 2004), incorporated as Title III in the Arizona Water Settlements Act ("AWSA"), 118 Stat. 3478 (December 10, 2004). The enforceability date of SAWRSA was December 14, 2007. The settlement includes the following binding federal water delivery obligations and other benefits:

- **66,000 acre-feet per year (AFY) of CAP water to the Tohono O'odham Nation:** 50,000 AFY is earmarked for the San Xavier Reservation to replace the surface and groundwater supply destroyed by the defendants in *United States v. Tucson, et al.*, and 16,000 AFY for the eastern Schuk Toak District of the Nation. This water is delivered via the CAP canal, which terminates at the southern boundary of the San Xavier Reservation, and the CAPlink pipeline to the Cooperative Farm. SAWRSA §§ 304(a) and 306(a).
- **Priority structure of the 66,000 AFY:** 37,800 AFY constitutes high-priority Indian water under the Winters Doctrine; 28,200 AFY is CAP non-Indian agricultural (NIA) priority water 'firmed' - guaranteed equivalent to municipal and industrial (M&I) priority water - pursuant to AWSA § 105(b) (Firming of Central Arizona Project Indian Water). The Secretary of the Interior is directly obligated to firm 28,200 AFY of SAWRSA Settlement Water. The Arizona Water Banking Authority ("AWBA") is obligated to firm an additional 23,724 AFY for other Arizona tribes. A.R.S. § 45-2491.
- **First right of beneficial use:** The San Xavier Reservation holds a 'first right of beneficial use' to 35,000 AFY of the 66,000 AFY of SAWRSA CAP Settlement Water, and a call on the remaining 15,000 AFY of the 50,000 AFY of San Xavier Settlement Water if needed on the Reservation.
- **Cooperative Farm restoration:** The United States is obligated to fund the rehabilitation and extension of the San Xavier Cooperative Farm to its historically irrigated 2,300 acres. The Cooperative Farm's irrigation operations sustain the community's agricultural heritage and food sovereignty and contribute to restoration of the depleted Reservation groundwater table through infiltration.
- **San Xavier District monetary settlement:** This is a fund of approximately \$21 million for the District government, based on a cash-out of a federal obligation to construct a new farm on previously unirrigated Reservation lands.
- **San Xavier allottees monetary settlement:** The Asarco Mission Mine Groundwater Savings Facility uses SAWRSA CAP Water in its operations to substitute for pumped groundwater which would otherwise deplete the San Xavier Reservation groundwater table. This generates Arizona state law long term water storage credits ("LTSCs") for the Alvarez Groundwater Contamination Settlement Fund to compensate allottee landowners

for the pollution of Reservation groundwater by the Asarco Mining Company, and for other purposes.

Renewed farming on the Reservation, reduced pumping of the city of Tucson's Santa Cruz Wellfield, operation of the Pima Mine Road recharge facility adjacent to the Reservation, and the Asarco Mining Company's use of CAP water instead of groundwater have raised the water table on the Reservation. However, the particular geology of the Reservation makes this groundwater supply vulnerable to renewed depletion by nearby non-Indian wells.

In settling this litigation, the Tohono O'odham Nation, the San Xavier District, and the individual Indian trust allotment landowners waived any future water rights claims against the city of Tucson, the Asarco Mining Company, the Farmers Investment Company, and approximately 1,800 other groundwater pumpers in the Tucson Basin. This waiver is permanent and irrevocable. SAWRSA § 312.

**SAWRSA must not be allowed to fail.** Under SAWRSA, Tucson, the Farmers Investment Company, and the Asarco Mining Company retained the right to return to exclusive groundwater use if CAP water is not delivered. The Wa:k community may nominally return to groundwater use as well, but the City and the surrounding pumpers would rapidly deplete the Tucson Basin groundwater to meet their far larger demands, drying up the Reservation's wells yet again. The San Xavier Cooperative Farm - the cultural core of this agricultural community - would cease operations. Wells operated by the Tohono O'odham Utility Authority supplying domestic and commercial water needs on the Reservation may fail, leaving the Reservation a barren, waterless wasteland. Because the District and its members are now legally barred from suing for injunctive relief to protect Reservation groundwater from off-Reservation depletion, the survival of the Wa:k community depends entirely on the continued delivery of SAWRSA CAP Water.

### **III. POSITIONS ON THE DEIS ALTERNATIVES**

#### **A. The DEIS Is Fundamentally Skewed Against the Lower Basin, Arizona, and Tribes**

The San Xavier District has carefully reviewed all five alternatives presented in the DEIS. As a threshold matter, the District is deeply troubled by what it views as a fundamental structural bias in the DEIS against the Lower Basin, Arizona, and the Tribes of the Lower Basin. In preparing the DEIS, Reclamation modeled alternatives - including those featuring pro rata shortage distribution that it simultaneously contends are 'inconsistent' with the existing Law of the River - while refusing to model Upper Basin alternatives that would require the Upper Basin States to meet their 1922 Compact obligations. This asymmetry is analytically inexplicable.

Reclamation acknowledges that most of federally settled tribal water rights to the Colorado River and its tributaries are in the Lower Basin. The Tohono O'odham Nation, the Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, and other Lower Basin Tribes together hold billions of dollars' worth of federally guaranteed water rights delivered through CAP - a system described in the DEIS as holding 'the latest and last (1968) priority in the Lower Colorado River Basin.' The DEIS's failure to analyze enforcement of the Upper Basin's Article III(d) Compact delivery obligation - while modeling Lower Basin shortage scenarios reaching 4.0

million acre-feet - exposes the CAP, Arizona, and Tribes like the Tohono O'odham Nation and the San Xavier Indian Reservation to disproportionate risk without a corresponding examination of available remedies. The District demands that the Final EIS correct this imbalance by analyzing Reclamation's authority to enforce Upper Basin Compact compliance and potential remedies to protect the Lower Basin's 7.5 MAF entitlement.

The priority-based shortage distribution that assigns Arizona 77.4% of all Lower Basin shortage while requiring California to bear none is inequitable and inconsistent with the foundational purpose of the 1922 Compact - the equitable division of the river's waters - and with the Supreme Court's observation in that pro rata distribution of shortages 'seems equitable on its face.' The Court went on to say

... [although] more considered judgment may demonstrate quite the contrary. Certainly, we should not bind the Secretary to this formula. We have held that the Secretary is vested with considerable control over the apportionment of Colorado River waters. And neither the Project Act nor the water contracts require the use of any particular formula for apportioning shortages. While the Secretary must follow the standards set out in the Act, he nevertheless is free to choose among the recognized methods of apportionment or to devise reasonable methods of his own. \* \* \* And the Secretary may or may not conclude that a pro rata division is the best solution.

*Arizona v. California*, 373 U.S. 546, 593 (1963). While the Supreme Court directed that all present perfected rights ("PPRs") on the River be honored, it expressly preserved the Secretary's discretion to allocate shortages equitably across all three Lower Basin states. The DEIS provides no justification for the Secretary's election, under the No Action and Basic Coordination alternatives, to permanently exempt California from all shortage burden regardless of drought depth or the magnitude of shortage imposed on Arizona.

Specific concerns regarding each alternative are stated below.

## **B. No Action Alternative**

The No Action Alternative reverts to pre-2007 Long Range Operating Criteria (LROC) operations, with shortage tiers benchmarked to Lake Mead elevations: 400,000 AF below 1,075 feet; 500,000 AF below 1,050 feet; 600,000 AF maximum below 1,025 feet. The shortage distribution follows the Consolidated Decree priority in *Arizona v. California*, 547 U.S. 150 (2006): Arizona absorbs approximately 77.4% of all shortages; California bears no shortage. DEIS Ch. 2, § 2.4. This alternative can be implemented consistent with the Law of the River, without interstate agreement, and requires no new Congressional authorization.

The shortage distribution modeled by Reclamation under the No Action and Basic Coordination alternatives assigning Arizona approximately 77.4% of all Lower Basin shortage while requiring California to bear none - is a consequence of the priority structure established by the Boulder Canyon Project Act and the Consolidated Decree. Under that structure, California's pre-1929 PPR shield 3.0 MAF from shortage curtailment. Beyond that, the Secretary has discretion to apportion shortages among the states. Arizona's Central Arizona Project holds a 1968 priority date, making

it the first major right curtailed in any shortage year. See DEIS Appendix C (Shortage Allocation Model Documentation).

The No Action Alternative has the lowest maximum shortage ceiling (600,000 AF) of all alternatives, meaning that in isolation it poses the lowest direct risk to CAP delivery volumes. However, it provides no new conservation mechanisms, no water-banking tools, and no formal Upper Basin coordination. DEIS modeling confirms this alternative has the highest vulnerability to dead pool conditions. The BOR has not analyzed how Lake Powell or Lake Mead would be managed under dead pool conditions, but it is evident that unless the BOR's modeling projects that 7.5 MAF can be released from Lake Powell in any year in which a dead pool condition occurs, the reservoirs must be managed to allow the River to run through - run of the river.

### **C. Basic Coordination Alternative**

The Basic Coordination Alternative is designed as a unilateral federal compliance option, implementable without interstate agreement. It establishes maximum shortages of approximately 1.48 million acre-feet, distributed on a priority basis (Arizona-heavy). Lake Powell releases range from 7.0 to 9.5 MAF. Limited upstream emergency releases from Flaming Gorge, Blue Mesa, and Navajo reservoirs are authorized. DEIS Ch. 2, § 2.5.

**Critical deficiency:** The Basic Coordination Alternative makes no provision for discharging Reclamation's 28,200 AFY firming obligation under AWSA § 105. The District demands that Reclamation specifically explain, in the Final EIS and the Record of Decision implementing this alternative, the precise mechanism — including the source of substitution water, the triggering conditions, and the delivery logistics — by which it will honor its firming commitment under this alternative in shortage years.

The San Xavier District recognizes that in the absence of a consensus agreement among the seven Basin States - which the DEIS acknowledges has not been achieved despite the February 14, 2026, deadline - the Interior Department and Reclamation are legally required to operate the Colorado River system consistent with the existing Law of the River. Under that constraint, only the No Action Alternative and the Basic Coordination Alternative are implementable without new interstate agreements or Congressional authorization. The District therefore acknowledges the Basic Coordination Alternative as the most likely operational framework in a no-deal scenario and urges that, if this alternative is adopted, the modifications described in Section IV of this Comment be incorporated.

### **D. Enhanced Coordination Alternative**

The Enhanced Coordination Alternative was developed with direct input from a consortium of Basin Tribes and federal agencies and incorporates concepts from the Gila River Indian Community's proposal. It establishes large, flexible conservation storage pools in both Lake Powell and Lake Mead, maximum shortage volumes reaching 3.0 million acre-feet under extreme conditions, and — critically — distributes shortages on a pro rata basis across all Lower Basin users. DEIS Ch. 2, § 2.6.

The District acknowledges that the Enhanced Coordination Alternative, on its technical merits, offers the most structurally sound reservoir stabilization framework of any alternative in the DEIS. The large conservation pool may prevent the extended periods of low reservoir elevation that accelerate depletion of the AWBA's finite long-term storage credit reserve - the sole source of substitution water for Reclamation's 28,200 AFY firming obligation under AWSA § 105. Once that reserve is exhausted, firming cannot be performed regardless of the legal obligation to do so, unless Reclamation purchases Arizona state-law long-term storage credits (LTSCs). (The District does not believe that LTSCs created by recharge of the Secretary's Tucson effluent through the bed of the Santa Cruz River can legally be used for firming.) Alternatives that maintain higher average Lake Mead elevations reduce the frequency and depth of shortage declarations, slow the draw-down of firming credits, and preserve the wet-year windows during which new credits can be accumulated. The Enhanced Coordination Alternative's conservation pool is therefore not merely a reservoir management tool — it is a precondition for the long-term financial and physical viability of the AWSA § 105 firming program.

**Fundamental concern:** Reclamation itself has stated that pro rata shortage distribution is 'inconsistent' with the Law of the River and would require new interstate agreements or Congressional authorization to implement. If no Basin States agreement is reached - a real possibility given the failure to achieve consensus by the February 14 deadline - then this alternative cannot be lawfully implemented in its current form. The District urges Reclamation to analyze a modified Enhanced Coordination Alternative that retains the large conservation pools and coordinated release mechanisms but replaces the pro rata shortage distribution with a priority-based distribution consistent with existing law. The conservation pool infrastructure is the essential benefit of this alternative; it need not be conditioned on the legally uncertain pro rata component. The District also opposes any storage retention in Lake Powell to maintain hydropower generation that would cause any loss of water to bank storage and evaporation. The Colorado River Storage Project Act of 1956 (CRSP Act), Pub. L. 84-485, authorizes Glen Canyon Dam for the purposes of regulating the flow of the Colorado River, storing water for beneficial consumptive use, enabling Upper Basin Compact apportionments, providing for the reclamation of arid lands, and flood control - and for the generation of hydroelectric power only as an incident of the foregoing purposes. Section 7 of the CRSP Act further provides that hydropower operations shall not affect or interfere with the Colorado River Compact, the Boulder Canyon Project Act, or any lawful contract entered into under those instruments. 43 U.S.C. §§ 620(a), 620f. Hydropower is therefore subordinate to every primary CRSP purpose, including Compact delivery compliance. The Post-2026 guidelines must reflect this statutory priority order.

The specific Technical Appendix deficiencies identified in the Enhanced Coordination Alternative's treatment of tribal CAP water are addressed in Section V.C of these comments.

## **E. Maximum Operational Flexibility Alternative**

The Maximum Operational Flexibility Alternative establishes the largest shortage ceiling in the DEIS - 4.0 million acre-feet - with a sliding shortage scale triggered when Powell and Mead drop below 80% capacity and run-of-river operations at Glen Canyon Dam when Lake Powell falls to 3,510 feet. DEIS Ch. 2, § 2.7.

The San Xavier District opposes the Maximum Operational Flexibility Alternative as the preferred alternative. Its 4.0 million AF shortage ceiling creates scenarios under which the firming mechanism - already under-resourced, as Reclamation has acknowledged - would be overwhelmed. No firming water program has been designed or capitalized to operate at 4.0 MAF system shortage levels. Additionally, the 'maximum flexibility' afforded to Reclamation under this alternative comes at the cost of predictability for water rights holders, including SAWRSA beneficiaries who depend on planning certainty for agricultural operations, aquifer recharge programs, and long-term water supply management.

The District notes one structural advantage of this alternative: the run-of-river trigger at Lake Powell 3,510 feet prevents catastrophic infrastructure failure at Glen Canyon Dam that would terminate all CAP deliveries. Although the DEIS is unclear on this point, it also appears to mean that when the Lake Powell elevation drops to 3,510 feet, Glen Canyon Dam will be operated to release run-of-river flows - and that the BOR would not have discretion to reduce releases below run-of-river levels to bring the Lake Powell elevation back above 3,510 feet to restart hydropower generation on an intermittent basis. Once the level of Lake Powell drops to 3,510 feet, run-of-river operations should be maintained until inflows are sufficient for Glen Canyon Dam to resume releases at 8.23 MAF. The District opposes any hydropower operations which reduce the total amount of water available to the Lower Basin. The mandate for run-of-river operations at or below 3,510 feet should be carried into whichever alternative is ultimately adopted in the ROD.

## **F. Supply Driven Alternative**

The Supply Driven Alternative ties Lake Powell releases to 65% of the 3-year average natural flow at Lee's Ferry, with shortage triggered when Lake Mead falls below 1,145 feet and a maximum shortage of 2.1 million acre-feet. DEIS Ch. 2, § 2.8.

The District acknowledges the intellectual merit of supply-driven release methodology, which aligns reservoir operations with hydrological reality. The 20-year average Lee's Ferry natural flow is approximately 12.7 MAF as of 2025 - far below historical modeled flows - and a framework that explicitly acknowledges this is more honest than one premised on a fixed 8.23 MAF release target that the river can no longer reliably support. When annual Lee's Ferry natural flows are at or above the 12.7 MAF 20-year average, the Supply Driven formula produces releases of approximately 8.25 MAF - functionally equivalent to the No Action 8.23 MAF minimum.

However, in critically dry years, the 65% rule could produce Lake Powell releases as low as 4.7–5.0 MAF. Sustained releases at this level would cause Lake Mead to decline over consecutive years, threatening the CAP supply. The District also notes the unresolved question of 'gap water' - the 35% of 3-year average natural flow not released from Powell - and demands that the Final EIS explicitly analyze where this water goes and how it is accounted for in Upper Basin consumptive use calculations.

If an interstate agreement is achievable that would produce a modified Supply Driven Alternative with pro rata shortage distribution across all entitlements (other than PPR) and stronger firming provisions, the District would view this positively. Absent such an agreement, the District's

position on the Supply Driven Alternative is negative - it is structurally vulnerable to extended low-flow conditions that are increasingly probable under current climate projections.

#### IV. SAN XAVIER DISTRICT PROPOSED PREFERRED ALTERNATIVE

Since none of the five DEIS alternatives as currently structured fully satisfies either the District's existential need to protect the SAWRSA CAP Water supply or the objective of maximizing sustainable water flow to the Lower Basin, the San Xavier District proposes the following operational principles as the basis for a Preferred Alternative to be analyzed in the Final EIS. These principles are grounded in the Law of the River and do not require new interstate agreements for their core implementation.

##### A. Core Operating Principles

- **Enforce Upper Basin Compact compliance:** The 1922 Colorado River Compact, Article III(d), requires the Upper Basin to not cause the flow of the river at Lee's Ferry to be depleted below an aggregate of 75 MAF for any period of ten consecutive years. The United States Departments of the Interior and Justice must enforce this provision against the Upper Basin states as necessary to ensure Compact compliance, and the Final EIS must analyze Reclamation's authority and obligation to do so.
- **Maintain minimum Lake Powell releases of 8.23 MAF and operate Glen Canyon Dam as a flow-through facility:** The objective shall be to maintain a minimum release from Glen Canyon Dam of 8.23 MAF annually, unless a higher release is required for equalization or Compact compliance with Article III(d). Glen Canyon Dam and Hoover Dam shall be managed to maximize beneficial use flows to the Lower Basin, not to prioritize hydropower generation at either facility, consistent with the CRSP Act's subordination of power generation to all other primary dam purposes. 43 U.S.C. §§ 620(a), 620f. Because Lake Powell loses tens of thousands of acre-feet annually to evaporation and bank seepage - water that would otherwise flow to Lake Mead and be available for Lower Basin beneficial uses, including SAWRSA CAP deliveries - the level of Lake Powell shall be minimized at the lowest practicable elevation consistent with the present infrastructure of Glen Canyon Dam. The level of Lake Powell may be maintained at the minimum elevation required for hydropower generation using run-of-river flows but must not be maintained at higher elevations for the sole purpose of maximizing hydropower revenues. Until river-level bypass tunnels can be constructed and made operational, the United States' fiduciary obligations to the Tohono O'odham Nation and other Central Arizona water rights settlement tribes require that Glen Canyon Dam be reconfigured as a flood control facility operating in run-of-river mode at all times except when Lake Mead is at capacity and flood control storage is required in Lake Powell.
- **Fully fund and activate the AWSA Section 105 firming mechanism:** The Reclamation obligation to firm 28,200 AFY of NIA priority CAP water for the Tohono O'odham Nation must be pre-funded in advance of any shortage declaration. The ROD must specify the minimum firming reserve balance that Reclamation and the AWBA

must maintain, the source of substitution water, and the mechanism for delivery, and must not delegate this analysis to subsequent administrative processes.

- **Plan and fund Glen Canyon Dam river-level bypass tunnels:** The Interior Department must immediately begin planning for the construction of river-level bypass tunnels at Glen Canyon Dam capable of holding flood flows when Lake Mead is full and must seek the necessary Congressional authorization and appropriations. The Department must seek funding to maintain or modify the existing River Outlet Works (ROW) tubes until river-level bypass tunnels are complete. As soon as river-level bypass tunnels are operational, the level of Lake Powell shall be reduced to river level at a rate consistent with environmental protection requirements in Grand Canyon National Park and Glen Canyon National Recreation Area, and the Interior Department shall seek Congressional legislation as necessary to authorize the decommissioning of Glen Canyon Dam for purposes other than flood control.

## **B. Transition and Implementation**

The District recognizes that full implementation of the bypass tunnel and decommissioning components of this proposal requires long-term planning and Congressional action. In the interim - and as a bridge framework for the period 2027 onward - the District supports adoption of the Basic Coordination Alternative as modified by the foregoing principles, with the express commitment by Reclamation to pursue the longer-term infrastructure investments described above and to return to the public for notice and comment as those plans are developed.

## **V. SPECIFIC REQUESTS FOR THE FINAL EIS**

### **A. Firming Obligation Analysis**

The DEIS fails to analyze, for any alternative, how Reclamation will specifically fulfill its obligation under AWSA § 105 to firm 28,200 AFY of NIA priority CAP water for the Tohono O'odham Nation. This is a legally binding federal obligation. The Final EIS must include:

- A quantitative analysis, for each alternative, of the number of years in which the firming mechanism would be activated across modeled hydrological scenarios from 2027 through 2060.
- A detailed description of the specific firming water source - including current AWBA long-term storage credit balances, projected annual credit accrual, projected annual credit depletion under firming activations, and the projected year in which credits are exhausted under each alternative.
- Reclamation's specific plan for maintaining the 28,200 AFY firming commitment if AWBA credits are exhausted, including the legal authority and funding mechanism for acquiring replacement supplies.

### **B. Upper Basin Compact Enforcement Analysis**

The Final EIS must analyze:

- Reclamation's legal authority under the 1922 Colorado River Compact, Article III(d), to require the Upper Basin States to ensure that the flow at Lee's Ferry is not depleted below 75 million acre-feet in any consecutive ten-year period.
- The status of Upper Basin consumptive uses relative to the Article III(d) trigger, and the projected year at which the trigger will be reached under each DEIS hydrological scenario.
- Reclamation's authority to require additional releases from CRSP Upper Initial Units — Flaming Gorge, Blue Mesa (Aspinall Unit), and Navajo reservoirs — to meet Compact delivery obligations, including modeling of such releases across the 2027–2060 planning horizon.
- Why the DEIS modeled pro rata shortage distribution alternatives that Reclamation itself characterizes as 'inconsistent with the Law of the River,' while simultaneously declining to model Upper Basin Compact enforcement alternatives that fall squarely within Reclamation's acknowledged authority.

### C. Technical Appendix Inconsistencies

The Final EIS must correct the following analytical inconsistencies:

- **Technical Appendices 11 and 13:** Technical Appendix 18 correctly identifies the Nation's SAWRSA CAP entitlement and trust lands as Indian Trust Assets. However, Technical Appendices 11 (Cultural Resources) and 13 (Recreation and Economic Resources) limit their scope to on-river Tribes and expressly exclude the Nation's CAP water from their analysis of tribal cultural and economic resources - despite the fact that the Wa:k Hikdan project on the Santa Cruz River is a direct cultural use of SAWRSA CAP Water, and despite the DEIS's own acknowledgment that the Nation uses its water for off-reservation economic purposes expressly authorized under SAWRSA. The San Xavier Cooperative Farm is a cultural resource, and all water used on the San Xavier Reservation - including water committed to the Asarco Groundwater Savings Facility by the Alvarez Groundwater Contamination Settlement incorporated in the SAWRSA Asarco Settlement Agreement - constitutes Indian Trust Assets. This inconsistency must be corrected in the Final EIS.
- **Technical Appendix 18 — Reservation groundwater:** Technical Appendix 18 excludes Reservation groundwater from its Indian Trust Asset analysis. The Department of the Interior's own trust policy recognizes that federally reserved groundwater rights are held in trust for Tribes. The Nation's Reservation groundwater - both quantified and unquantified federal reserved rights - is directly affected by Colorado River shortage scenarios through their effects on the Tucson Basin water table. The Final EIS must include Reservation groundwater in the Indian Trust Asset analysis.

## **D. Groundwater Impact Analysis**

The District demands a quantitative analysis - drawing on multiple years of available groundwater monitoring data in the Tucson AMA and ADWR's groundwater projections - of the effect of each DEIS alternative on the Tucson Basin water table and on water availability at Reservation wells. Qualitative acknowledgment that 'increased shortages may result in increased groundwater impacts' is insufficient. The impact on SAWRSA's practical viability depends on whether the Reservation's groundwater backstop remains available if CAP deliveries are disrupted. This analysis must be in the Final EIS.

## **VI. CONCLUSION**

The Wa:k community has farmed land encompassed by the San Xavier Indian Reservation since time immemorial. The federal government allowed the destruction of the community's domestic and agricultural water supply by its failure to protect the Santa Cruz River and Tucson Basin groundwater from systematic depletion by non-Indian municipal, industrial, and agricultural users. SAWRSA and AWSA represent the United States' solemn commitment to make that right - a commitment secured in exchange for the permanent and irrevocable waiver of future water rights claims by the Tohono O'odham Nation, the San Xavier District, and the owners of more than 41,000 acres of individual Indian trust allotments.

The post-2026 operating guidelines will govern Colorado River management for a generation. If those guidelines allow the CAP system to fail - through inadequate shortage management, inadequate firming resources, inadequate Upper Basin compliance, or inadequate protection of Indian priority water - SAWRSA will have failed. The San Xavier Cooperative Farm, a necessity for the cultural survival of the San Xavier Reservation community, will cease operations. The Wa:k community's domestic water supply will be at risk. And the federal government will have broken a promise it made to this community in the settlement of litigation necessitated by its breach of its fiduciary duties to protect San Xavier Reservation water supplies.

The San Xavier District therefore urges the Bureau of Reclamation to:

- Adopt the District's proposed operational principles - including run-of-river Glen Canyon Dam operations, minimization of Lake Powell storage, and planning for river-level bypass tunnels - as the basis for the Preferred Alternative in the Final EIS.
- In the absence of a Basin States agreement, adopt the Basic Coordination Alternative with modifications ensuring full firming obligation compliance and protection of Indian priority water.
- Specifically address and correct all Technical Appendix inconsistencies identified in these comments.
- Analyze Reclamation's authority and obligation to enforce Upper Basin Compact delivery requirements.

- Provide a quantitative groundwater impact analysis for each alternative.

The San Xavier District requests that these comments be incorporated into the administrative record and that the Final EIS provide written responses to each specific issue identified above.

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Respectfully submitted,



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Austin Nunez, Chairman  
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Date: March 2, 2026

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## SOURCES AND AUTHORITIES

The following sources are cited in these comments:

- Bureau of Reclamation. Post-2026 Colorado River Reservoir Operations — Draft Environmental Impact Statement, Chapters 1–9. January 9, 2026.  
<https://www.usbr.gov/ColoradoRiverBasin/post2026/draft-eis/>
- Bureau of Reclamation. Post-2026 DEIS Technical Appendices 11 (Cultural Resources), 13 (Recreation/Economic Resources), 15 (Dams and Electrical Power), 16 (Groundwater), 18 (Indian Trust Assets). January 2026.
- Bureau of Reclamation. Post-2026 Alternatives Report. January 17, 2025.  
[https://www.usbr.gov/ColoradoRiverBasin/documents/post2026/alternatives/Post-2026\\_Alternatives\\_Report\\_20250117\\_508.pdf](https://www.usbr.gov/ColoradoRiverBasin/documents/post2026/alternatives/Post-2026_Alternatives_Report_20250117_508.pdf)
- Arizona Water Settlements Act (AWSA), Pub. L. 108-451, 118 Stat. 3478 (December 10, 2004), Title III (Southern Arizona Water Rights Settlement Amendments Act of 2004), §§ 104–105, 308.
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