

February 1, 2019

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Responding to Historic Drought and Ongoing Dry Conditions in the Colorado River

Basin: Request for Input

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice; request for input.

SUMMARY: The Colorado River Basin (Basin) has experienced historically dry conditions since 2000 and the combined storage in Lakes Powell and Mead has reached its lowest level since Lake Powell initially began filling in the 1960s. Given the persistence and intensity of the current drought, the risk of reaching critically low elevations at Lakes Powell and Mead has increased nearly four-fold over the past decade. The Department of the Interior (Department), recognizing this increased risk, called on the seven Colorado River Basin States (Basin States) to put drought contingency plans (DCPs) in place before the end of 2018. Each of the Governors' representatives of the Basin States endorsed the goal of completion of the DCPs by the end of 2018.¹

The DCPs remain unfinished at this time, and given the current unfinished status of the DCPs, combined with declining reservoir storage in the Basin, the Department is considering potential federal actions to revise Colorado River operations in an effort to enhance and ensure sustainability of Colorado River water supplies for the southwestern United States. This Notice requests input from the Governors of the Basin States (and

¹ See statement of Commissioner of Reclamation and representatives of the Seven Colorado River Basin States at <https://www.usbr.gov/newsroom/newsrelease/detail.cfm?RecordID=62170>

appropriate consultation with such state representatives as each Governor may designate) regarding recommendations for potential Departmental actions in the event that the DCPs cannot be completed and promptly adopted that: a) would be appropriate to take to reduce the risks the Colorado River Basin is facing, and b) can be adopted prior to the August 2019 determinations of operations for Lake Powell and Lake Mead in 2020.

DATES: Input will be accepted beginning March 4, 2019, for a 15-day period ending March 19, 2019.

ADDRESSES: Send input pursuant to this notice by email to crbasin_drought@usbr.gov, or via facsimile to (202) 513-0308. More information regarding the DCPs is available on the Bureau of Reclamation's website at <https://www.usbr.gov/dcp/>.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Notice, contact James Hess by email at jhess@usbr.gov, or by telephone at (202) 513-0543.

SUPPLEMENTARY INFORMATION: The Colorado River is the most important water resource in the southwestern United States and northwestern Mexico—irrigating nearly 5.5 million acres of farmland and serving approximately 40 million people in major metropolitan areas such as Albuquerque, Cheyenne, Denver, Las Vegas, Los Angeles, Phoenix, Salt Lake City, San Diego, Tucson, and Tijuana. The waters of the Colorado River are shared among seven states within the United States: Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. The Secretary of the Interior, pursuant to applicable provisions of federal law including, in particular, the Boulder Canyon Project Act of 1928 (authorizing, among other actions, construction and

operation of Hoover Dam and Lake Mead) and the Colorado River Storage Project Act of 1956 (authorizing, among other actions, construction and operation of Glen Canyon Dam and Lake Powell), is vested with the responsibility to manage the waters of the Colorado River through operations of federal facilities in the Colorado River Basin. Under applicable federal law, the Secretary of the Interior's authorities to manage the waters of the Lower Colorado River Basin are broader than his authorities in the Upper Basin, but the importance of federal facilities in the management of the Colorado River extends throughout the Basin.

Since 2000, the Colorado River Basin has experienced historic drought and dry conditions; the combined storage in Lakes Powell and Mead has reached its lowest level since Lake Powell initially began filling in the 1960s.

In recent decades, recognizing the limited resources of the Colorado River, the Department of the Interior has undertaken numerous actions to manage the waters of the Colorado River including, in particular, development of the 2001 Interim Surplus Guidelines (see 66 FR 7772 dated January 25, 2001) and development of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (see 73 FR 19873 dated April 11, 2008) (2007 Interim Guidelines).

The 2007 Interim Guidelines represent important additional operational guidelines and tools that were adopted to meet the challenges of the drought in the Colorado River Basin. As the Department noted at the time: "While water storage in the massive reservoirs afforded great protection against the drought, the Department set a goal to have detailed, objective operational tools in place by the end of 2007 in order to be ready to

make informed operational decisions if the reservoirs continued to decline,” 73 FR 19873. Implementation of the 2007 Interim Guidelines required consultation with the Basin States in multiple provisions, expressly providing that: “Beginning no later than December 31, 2020, the Secretary shall initiate a formal review for purposes of evaluating the effectiveness of these Guidelines. The Secretary shall consult with the Basin States in initiating this review,” 73 FR 19892 (April 11, 2008).

Since adoption of the 2007 Interim Guidelines, given the persistence and intensity of the current drought, the risk of reaching critically low elevations at Lakes Powell and Mead has increased nearly four-fold. In response to these conditions of continued drought and increasing risk, Reclamation and officials in the Basin States have been working for a period of years on DCPs. The Upper and Lower Basin DCPs contain actions in addition to those authorized or required by the 2007 Interim Guidelines, and are designed to reduce the risk of Lake Powell and Lake Mead declining to critical elevations.² The Basin States made significant progress in 2018 on draft DCP agreements that would implement Upper and Lower Basin DCPs,³ but work on the DCPs remains unfinished, particularly among the Lower Colorado River Basin states of Arizona, California and Nevada. While unfinished, the Department takes particular cognizance of the fact that on January 31, 2019, the Arizona Legislature passed

² Completion of the DCPs, and associated reduction in risk of Lakes Powell and Mead declining to critically low elevations, will also benefit the activities, analyses and interstate discussions associated with the formal review and evaluation of the effectiveness of the 2007 Interim Guidelines. Under the applicable provisions of the 2007 Interim Guidelines the Secretary shall consult with the Basin States in initiating this review beginning no later than December 31, 2020.

³ Draft versions of the DCPs and information on the Upper and Lower Basin DCPs are available on the Bureau of Reclamation’s website at: <https://www.usbr.gov/dcp/>.

legislation authorizing the Arizona Department of Water Resources Director to execute the relevant interstate DCP agreements. Arizona is unique in the need for state legislative action to approve the DCPs, and this important step may indicate that finalization of the DCPs is imminent.

While the Department supports the ongoing efforts of the Basin States and remains cautiously optimistic that the Basin States will successfully complete their efforts promptly in early 2019, the Department is highly concerned that continued delays regarding adoption of the DCPs inappropriately increases risk for all that rely on the waters of the Colorado River.

In the circumstance that the DCPs cannot be promptly completed in early 2019, the Department must be prepared to take actions – if needed – to respond to the increasing risks facing the Colorado River Basin. Consistent with past practice, through this Notice, the Department is taking the initial step of requesting input from the Governors of each of the Basin States for their specific recommendations on prompt Departmental actions that: a) would be appropriate to take to reduce the risks the Colorado River Basin is facing, and b) can be adopted prior to the August 2019 determinations of operations for Lake Powell and Lake Mead in 2020.

Engagement with the Governors of the Basin States and appropriate consultation with such state representatives as each Governor may designate is appropriate given the Secretary's recognition of "the special role of the Basin States in matters relating to the Long-Range Operating Criteria," 64 FR 27009 (May 18, 1999), as codified in Section 602 of the Colorado River Basin Project Act of 1968. The Department's history and actions in recent decades fully reflect and underscore the importance of working closely

with the Basin States in developing operational tools for management of the Colorado River. For example, the Secretary of the Interior noted at the time of the adoption of the 2007 Interim Guidelines: “In recent years, in a number of settings, and facing a broad range of water management challenges, the Department has highlighted the important role of the Basin States in the statutory framework for administration of Basin entitlements and the significance that a seven-state consensus represents. Multi-state consensus is a rare and unique achievement that should continue to be recognized and facilitated,” 73 FR 19878 (April 11, 2008). The Department fully endorses this Secretarial statement of policy as this approach continues to represent the best manner to address future controversies on the Colorado River through consultation and negotiation. Simply put, this approach minimizes the likelihood that controversies will increase and intensify as water supplies diminish.

Through this Notice, and at this time, the Department is seeking input from the Governors’ representatives of the Basin States. The Department will ensure that the information received from the Governors’ representatives is promptly shared with tribes, interested parties and the general public for their review. In the event that the Department proposes to take further action following receipt of such input, the Department will also provide an opportunity for further input from tribes, interested parties and the general public.

Across Administrations, the Department has invested extraordinary time, effort and resources to facilitate development of the DCPs. While adoption of consensus-based DCPs in early 2019 would appropriately and promptly reduce the risk facing the Colorado River Basin, the Basin States may not complete the actions necessary to put the

DCPs into effect this year. Accordingly, the Department must be prepared to act without undue delay to reduce the risk of continued declines in the critical water supplies of the Colorado River Basin in the unfortunate event that the Basin States are unable to complete their work on the DCPs.