



# United States Department of the Interior



BUREAU OF RECLAMATION  
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VIA ELECTRONIC MAIL ONLY

Amy Lueders  
Regional Director  
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P.O. Box 1306  
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Subject: Approval of Calendar Year (CY) 2023 Colorado River Water Diversion – U.S. Fish and Wildlife Service (Service)

Dear Amy Lueders:

The Bureau of Reclamation received the Service's Colorado River water diversion estimate for CY 2023 in which the Service requests approval to divert up to 23,005 acre-feet (AF) for the Cibola National Wildlife Refuge (NWR); up to 6,128 AF for the Imperial NWR; and up to 41,835 AF for the Havasu NWR (for a total diversion request of up to 70,968 AF) in CY 2023. In accordance with Title 43, Code of Federal Regulations Part 417 (Part 417), this letter provides the Service with notice of my determination regarding the Service's proposed diversion and beneficial use of Colorado River water for CY 2023.

As provided in Article II(D)(7) of the Consolidated Decree of the Supreme Court of the United States in *Arizona v. California et.al.*, 547 U.S. 150 (2006) (Consolidated Decree), the Havasu NWR is entitled to divert up to 41,839 AF per year, or consumptively use up to 37,399 AF per year, whichever is less, of Arizona second priority Colorado River water to fulfill the purposes of the refuge.

As provided in Article II(D)(8) of the Consolidated Decree, the Imperial NWR is entitled to divert up to 28,000 AF per year, or consumptively use up to 23,000 AF per year, whichever is less, of Arizona second priority Colorado River water to fulfill the purposes of the refuge.

As provided in the Secretarial Reservation, published in the *Federal Register* at 47 Fed. Reg. 55430 (December 9, 1982), the Cibola NWR is entitled to divert up to 34,500 AF per year, or consumptively use up to 16,793 AF per year, whichever is less, of Arizona second priority Colorado River water with a priority date of August 21, 1964, to fulfill the purposes of the refuge.

On August 16, 2022, Reclamation released its Colorado River Basin August 2022 24-Month Study, which projects Lake Mead's January 1, 2023, operating determination elevation to be 1,047.61 feet.<sup>1</sup> In its letter dated September 14, 2022, Reclamation announced that, in accordance with the 2007 Interim Guidelines,<sup>2</sup>

<sup>1</sup> The CY 2023 operating determination elevation of 1,047.61 feet was calculated by taking Lake Mead's projected end of CY 2022 physical elevation of 1,040.78 feet, as reported in the August 2022 24-Month Study, and adding 480,000 AF of water held back in Lake Powell to Lake Mead's capacity to maintain operational neutrality. Additional information is available at: <https://www.usbr.gov/lc/region/g4000/24mo/>.

<sup>2</sup> Referring to *Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead* dated December 13, 2007.

Lake Mead and the lower Colorado River will operate in a Tier 2 Shortage Condition in CY 2023.<sup>3</sup> In addition, the 2019 *Lower Basin Drought Contingency Plan Agreement* (LB DCP Agreement) will also govern the operation of Lake Mead for CY 2023. In accordance with Section XI.G.2.D.1.b of the 2007 Interim Guidelines, 2.4 million AF is apportioned for consumptive use in the state of Arizona in CY 2023 (a reduction of 400,000 AF from its 2.8 million AF basic apportionment). Additionally, in accordance with Section III.B.1.a of Exhibit 1 to the LB DCP Agreement,<sup>4</sup> the state of Arizona will be required to make DCP Contributions in the total amount of 192,000 AF in CY 2023.

Consistent with the Arizona mainstream Colorado River water priority system, there are no reductions to the water supply available to first, second and third priority entitlement holders for CY 2023. As noted in Reclamation’s September 14<sup>th</sup> letter, the Arizona fourth priority Colorado River water available supply for CY 2023 is 1,078,962 AF on a consumptive use basis. Of this amount, 106,318 AF,<sup>5</sup> on a diversion basis, is available for distribution among mainstream fourth priority entitlement holders for use in CY 2023 in accordance with the state of Arizona’s August 6, 2009, Arizona Shortage Sharing Recommendation<sup>6</sup> and the “pool” approach described by letter dated January 25, 2021.<sup>7</sup> Reclamation has determined that the available Arizona mainstream fourth priority water supply is sufficient to satisfy all initial on-river mainstream water orders for CY 2023. However, given the limited available supply, requests for modifications to increase approved water order amounts will be evaluated on a case-by-case basis to ensure approved volumes do not collectively exceed the 106,318 AF of available supply. Arizona fifth priority and/or sixth priority entitlements will not be available for diversion in CY 2023.

Based upon the Shortage Condition determination, a review of the CY 2023 diversion estimates provided by the Service, and the information gathered during Reclamation’s Part 417 consultation, I approve a total diversion of up to 70,968 AF of Colorado River water during CY 2023 for use on the Service’s refuges within the state of Arizona. This approved diversion results in an estimated total consumptive use of 21,627 AF.

Diversions to each refuge are limited to the “Approved Diversion” amounts listed in the table below. The estimated consumptive use associated with each of these diversions is within the consumptive use limitations noted above.

	<b>Diversion Entitlement (AF)</b>	<b>Requested Diversion (AF)</b>	<b>Approved Diversion (AF)</b>	<b>Estimated Consumptive Use (AF)</b>
Havasu NWR	41,839	41,835	41,835	3,564
Imperial NWR	28,000	6,128	6,128	3,799
Cibola NWR	34,500	23,005	23,005	14,264
<b>Total</b>	<b>104,339</b>	<b>70,968</b>	<b>70,968</b>	<b>21,627</b>

<sup>3</sup> The projected operation determination elevation of 1,047.61 feet is within the Drought Contingency Plan elevation band of 1,045 and 1,050 feet and reflects what is commonly referred to a “Tier 2a” Shortage Condition.

<sup>4</sup> Referring to *Lower Basin Drought Contingency Operations*. Available at: <https://www.usbr.gov/lc/region/g4000/dcpdocs/Attachment-B-Exhibit-1-LB-Drought-Operations.pdf>.

<sup>5</sup> The mainstream pool will receive 9.85% of the Arizona fourth priority Colorado River water available for CY 2023, calculated as 164,652 AF divided by the difference between Arizona’s 2,800,000 AF basic apportionment and the average historical consumptive use by Arizona first, second, and third priority users (1,129,038 AF). The average historical consumptive use by Arizona first, second, and third priority users is based on the four highest years of consumptive use during the five-year period from 2017-2021.

<sup>6</sup> Available at: [https://new.azwater.gov/sites/default/files/8-6-2009\\_ADWR\\_Shortage\\_%20ecommendation.pdf](https://new.azwater.gov/sites/default/files/8-6-2009_ADWR_Shortage_%20ecommendation.pdf).

<sup>7</sup> Available at: [https://new.azwater.gov/sites/default/files/01.25.21\\_ADWR\\_CAWCD\\_shortage\\_recommendationLetter.pdf](https://new.azwater.gov/sites/default/files/01.25.21_ADWR_CAWCD_shortage_recommendationLetter.pdf).

Reclamation would like to highlight that, in accordance with the *Inadvertent Overrun and Payback Policy*,<sup>8</sup> **accumulations of inadvertent overruns are not permitted in CY 2023 and are suspended as long as a Shortage Condition is in effect.** To assist entitlement holders in monitoring their Colorado River water use to ensure they remain within available quantities, Reclamation will project CY 2023 diversions and consumptive use of Colorado River water during CY 2023 and will make these projections available daily on Reclamation's website<sup>9</sup> beginning in January 2023. Reclamation encourages Colorado River water entitlement holders to use the projections to adjust diversions to remain within their Reclamation-approved annual Colorado River water order.

Thank you for submitting the Service's diversion estimate for CY 2023. Should you have questions, please contact Jeremy Dodds, Water Accounting and Verification Group Manager, at (702) 293-8164 or [jdodds@usbr.gov](mailto:jdodds@usbr.gov). Individuals in the United States, who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunication relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

Sincerely,

**JACKLYNN  
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<sup>8</sup> Available at: <https://www.usbr.gov/lc/region/g4000/IOPP.pdf>.

<sup>9</sup> Available at: <https://www.usbr.gov/lc/region/g4000/hourly/forecast.pdf>.

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