



# YAVAPAI-APACHE NATION

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*Via Email: [7DReview@usbr.gov](mailto:7DReview@usbr.gov)*

Dr. Terry Fulp, Regional Director  
U.S. BUREAU OF RECLAMATION  
Lower Colorado Region  
P.O. Box 61470  
Boulder City, NV 89006-1470

**RE: Yavapai-Apache Nation's Comments Regarding the Scope of the Bureau of Reclamation's 7.D Review of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead**

Dear Dr. Fulp:

As Chairman of the Yavapai-Apache Nation ("Nation"), please accept these comments regarding the Bureau of Reclamation's 7.D Review of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead ("2007 Guidelines").

In carrying out its responsibilities under Section XI.G.7.D. of the [Record of Decision: Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead](#) (November 2007) ("ROD"), the Bureau of Reclamation has an obligation to critically determine the technical effectiveness of the 2007 Guidelines. As part of this review, Reclamation should also note that the process of developing the 2007 Guidelines, and thereafter the issuance of the ROD, failed to ensure that Indian Tribes, including the Nation, were properly included.

While the Nation understands that the purpose of the 7.D. Review is to provide a "succinct and useful technical report,"<sup>1</sup> as the Colorado River Basin turns toward the development of a process of negotiation regarding the expiration of the 2007 Guidelines in 2026, recognizing this initial shortfall in the development of the 2007 Guidelines to adequately consider Indian Tribes in the Colorado River Basin,

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<sup>1</sup> [Review of the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead](#) at slide 11 (Mar. 24, 2020) [hereinafter March 24 Presentation].

including those with CAP entitlements like the Nation, is a critical step in learning from the experience of the 2007 Guidelines and carrying out the purpose of the 7.D. Review.

In the operational experience of the 2007 Guidelines, Reclamation gained not only technical information, but also implemented programs in coordination with the Lower Basin stakeholders meant to support the purposes of the 2007 Guidelines by finding additional opportunities for storage and delivery of water supplies that provided a greater degree of predictability to water users as the Basin experienced more than a decade of aridification.<sup>2</sup> While actions taken since 2007 will receive limited review in the 7.D. Report,<sup>3</sup> it is important to understand that Indian Tribes played a critical role in the ability of those programs to succeed. Ensuring involvement of the Lower Basin Tribes in this 7.D review process and the upcoming consideration of new operational guidelines is critical to ensuring that Reclamation and the Lower Basin stakeholders, including Tribes, have the maximum ability to meet the goals of sound management of the Lower Colorado River system.

In 2014, Reclamation implemented the Pilot System Conservation Project (PSCP), which resulted in participation of Indian Tribes in system conservation efforts that supported conservation of Colorado River water and avoiding shortage in Lake Mead.<sup>4</sup> As implemented, the PSCP provided a meaningful opportunity for Indian Tribes to contribute to basin-wide goals of avoiding shortage. While the PSCP was not necessarily contemplated in the ROD, Reclamation and its funding partners in the Basin recognized the opportunity brought by Tribal participation in the process, which produced more than 90,000 acre feet of conserved water in the Colorado River system.<sup>5</sup>

In addition, the implementation of the Lower Basin Drought Contingency Plan in 2019 (“DCP”), following months of contentious negotiation within the State of Arizona, would not have been possible without the flexibility provided by participation of Indian Tribes in the negotiation process within the state. During those negotiations, Reclamation’s Phoenix Area Office organized sustained and meaningful coordination with Tribes in Arizona, providing an opportunity for review and advocacy in the intrastate process, which resulted in a consensus implementation plan for DCP in the State of Arizona and paved the way for the DCP agreements to be signed. This level of interaction and coordination with the Tribes should continue to be sustained throughout the next steps in the review of the 2007 Guidelines and as new guidelines are considered.

As Reclamation and stakeholders in the Colorado River Basin use the 7.D. Review process to reflect on the effectiveness of the 2007 Guidelines and learn from the prior 13 years of its implementation, it is critical the Basin remember the lessons of the past by recognizing where the insufficiency of ensuring Tribal participation in the original 2007 Guidelines resulted in difficulties during the DCP process,

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<sup>2</sup> ROD at 7.

<sup>3</sup>March 24, 2020 Presentation at 14.

<sup>4</sup>[Agreement Among the United States of America, Through the Department of the Interior, Bureau of Reclamation, the Central Arizona Water Conservation District, the Metropolitan Water District of Southern California, Denver Water, and the Southern Nevada Water Authority, for a Pilot Program for Funding the Creation of Colorado River System Water Through Voluntary Water Conservation and Reductions in Use](#) (Jul. 30, 2014).

<sup>5</sup>[Pilot System Conservation Program](#) (Sept. 11, 2019).

particularly with the lack of efficiency in negotiating critically needed additional solutions for shortage management and the inequity in treatment of the Tribes during that process.

We hope that the 7.D Review will remind Reclamation of the importance that Indian Tribes have played in the stewardship of the Colorado River and underscore the importance of meaningful and sustained participation of the Lower Basin Tribes in any future guidelines development regarding management of the Colorado River.

The Nation appreciates the opportunity to provide these comments. In addition to the Nation, please ensure that our Water Rights Counsel, Ms. Robyn L. Interpreter and Ms. Susan B. Montgomery are included on all future notice and mailing lists related to this matter.

Yours Truly,

**YAVAPAI-APACHE NATION**



Jon Huey, Chairman

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