



May 19, 2020

The Honorable David Bernhardt, Secretary  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Secretary Bernhardt,

Section XI.G.7.D of the 2007 *Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead* (Guidelines) requires the Secretary of the Interior (Secretary) to initiate a formal review of the effectiveness of the Guidelines on or before December 31, 2020 (7.D Review). You announced at the Colorado River Water Users Association conference last December that the Department of the Interior, through its Bureau of Reclamation (Reclamation), would use 2020 for that purpose. In March 2020, Reclamation hosted two public webinars during which it discussed, and solicited comments on, the proposed scope, approach, process and schedule of the 7.D Review. By this letter, the seven Colorado River Basin States respond to Reclamation's request.

In commenting on the 7.D Review proposed process, we are mindful that the Guidelines were promulgated at a time of uncertainty in the Colorado River Basin, reflecting both historically poor hydrology and resulting disagreements arising among the states and federal government regarding various elements of the Law of the River. At the start of the 2000 water year, the combined storage in Lakes Powell and Mead was 47.6 million acre-feet. After the worst five-year period of inflow on record, that storage level fell to 23.1 million acre-feet – a striking loss of more than half the river's stored water. Plummeting levels in both reservoirs threatened profound economic and way-of-life dislocations for the tens of millions of people dependent on Colorado River water and potentially imperiled a host of rights and obligations related to releases from Lakes Powell and Mead, as well as deliveries to Mexico by the United States. These concerns were so acute that several Basin States began appropriating funds to litigate different interpretations of the Law of the River.

Rather than pursuing litigation, however, and with the urging of Secretary Norton, the States negotiated a preferred alternative for coordinated river management that would benefit both basins. The Secretary largely adopted the States' alternative in the Guidelines' Record of Decision issued December 13, 2007 (ROD). The Basin States' participation in the development of, and agreement to, the terms of the Guidelines was essential to their adoption and subsequent

implementation. The States entered into a Seven States Agreement on April 23, 2007 (Seven States Agreement) in which they requested the Secretary to include the material terms of the Seven States Agreement as the recommended preferred alternative in the Guidelines themselves. The States agreed in Section 7 of the Seven States Agreement to initiate consultations with one another before December 31, 2020, to determine whether to recommend that the Secretary continue operations under the Guidelines beyond 2026, modify the Guidelines, or discontinue operations under the Guidelines after 2026. The 7.D Review arose directly from the States' interest in taking stock of the effectiveness, equity, and utility of the Guidelines beginning in 2020, and will be a helpful resource as the next negotiation process develops.

Collaboration and cooperation proved to be a very successful approach in negotiating the Guidelines. Today, climate change, on-going drought, and warming temperatures put tremendous pressure on our limited hydrologic resources. Additionally, there is an ever-evolving element of uncertainty and increase in the level of awareness and interest in Colorado River management both nationally and internationally. The array of issues challenging the Colorado River and its users has significantly evolved since 2007, as the growing number of stakeholder groups reflects. Accordingly, as the Basin States begin the renegotiation as contemplated by the Seven States Agreement, we envision a process that invites input and perspective from a broader group of stakeholders than that which occurred in the lead up to adoption of the Guidelines. Our prospects of success depend on working with those invested in the outcomes of effective river management.

Collaboration will continue to be important to charting the course of river management post-2026. Accordingly, the Basin States support Reclamation's efforts to inform Mexico, with whom we have developed and deepened our relationship over the years, about the 7.D Review, and we encourage Reclamation to continue to undertake appropriate efforts to keep Mexico informed as the 7.D Review process continues. Likewise, we encourage Reclamation to keep the various water users, tribes and NGOs, all of whom have played an increasingly prominent and collaborative role, informed as the 7.D Review moves forward.

With regard to the proposed scope of the 7.D Review, we note that Reclamation has outlined a list of common themes and purposes from the Guidelines. The consideration of all themes and purposes contained in the Guidelines is essential to Reclamation's proposed "effectiveness" evaluation. Minimizing shortages in the Lower Basin and avoiding risk of curtailments in the Upper Basin should be examined, along with other themes and purposes, when assessing effectiveness. Reclamation's analysis should also include the operational elements set forth in the ROD and identify how the Guidelines performed to achieve those intended purposes. Indeed, one of the stated purposes of the ROD is to "improve Reclamation's management of the Colorado River...considering the effects on water storage in Lake Powell and Lake Mead, and on water supply, power production, recreation, and other environmental resources." The 7.D Review should describe and quantify, to the extent possible, the effectiveness of the Guidelines with respect to such management.

The Basin States support Reclamation’s position that the 7.D Review is retrospective, with a focus on past operations and actions under the Guidelines, and is not intended to evaluate post-2026 operations. However, the 7.D review should recognize the individual and collective results of river management arrangements adopted subsequent to the Guidelines, such as Minutes 319 and 323 to the 1944 Water Treaty and the Upper and Lower Basin Drought Contingency Plans, when assessing the effectiveness of the Guidelines.

As you know, the Colorado River provides a vital and irreplaceable resource to communities across the seven Basin States and the Republic of Mexico. We look forward to continuing our unique partnership with you in the completion of the 7.D Review and as we move forward in managing this critical resource.

Sincerely,



---

Thomas Buschatzke  
Governor’s Representative  
State of Arizona



---

Rebecca Mitchell  
Governor’s Representative  
State of Colorado



---

Peter Nelson  
Governor’s Representative  
State of California



---

John J. Entsminger  
Governor’s Representative  
State of Nevada



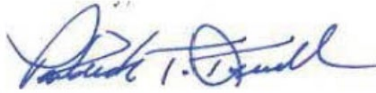
---

John R. D’Antonio, Jr.  
Governor’s Representative  
State of New Mexico



---

Todd Adams  
Governor’s Representative  
State of Utah



---

Patrick T. Tyrrell  
Governor's Representative  
State of Wyoming

cc: Carly Jerla, U.S. Bureau of Reclamation, [cjerla@usbr.gov](mailto:cjerla@usbr.gov)  
Malcom Wilson, U.S. Bureau of Reclamation, [mmwilson@usbr.gov](mailto:mmwilson@usbr.gov)