

Comment 2:

The study is based upon the assumption that the Upper Basin States will release 8.23 million acre-feet per year in perpetuity. This assumption appears to be based upon the projected future use curve provided by the Upper Basin States seven years ago (Appendix C). This assumption is a fundamental assumption to the entire model. However, this assumption has two difficulties.

First, the development pattern shown in Appendix C is not realistic in light of historic data (attached as a graph). It overstates the water use in the near years and significantly understates the use in the more distant years.

The second difficulty is that the Upper Basin States are not legally required to release 8.23 million acre-feet per year. The model would be useful if, instead of assuming the release of 8.23 million acre-feet per year, it used the Colorado Compact scenario as interpreted by the Upper Basin States. Specifically, in the Colorado Compact scenario, the Upper Basin States only releases 75 million acre-feet every 10 years. Also, the sensitivity studies provided (Appendix N) relate solely to hydrologic assumptions, without regard to examining the assumptions relating to human activities. The assumed human actions are likely to greatly distort the answers and need to be considered.

Take for example the year 2026, the Basin States option show shortages of 400,000 plus acre-feet 35 percent of the time. If the Upper Basins' releases were cut by 750,000 acre-feet, then those shortages (instead of being 400,000 plus acre-foot shortages) would be 1,150,000 plus acre-foot shortages. By using this assumption, it has a tremendous impact on the Gila River Indian Community. The Central Arizona Project water, which constitutes a large part of the Community's Settlement for its Winters' Rights, would have the net CAP supply (after leases are met) go from the 224,300 acre-foot full supply to zero acre-feet. Further, in the years when normal conditions are projected, which is 27 percent of the time, the water supply would drop to approximately 37,500 acre-feet or roughly 15 percent of the allocation.

It appears that the shortages could be much greater and possibly longer with any of the alternatives if the Upper Basin States do not agree with the assumption that 8.23 million acre-feet will continue to be released to the Lower Basin States and Mexico. There could be significant impacts based on release of 7.5 million acre feet. Mexico's share of the shortages would be increased from 16.67% to 20%. All of the alternatives could be significantly impacted with these differences and/or Mexico or the Upper Basin States Agreement.

Comment 3:

The computer models are based upon the assumption that each of the alternatives being evaluated stops in 2027. The no-action alternative is evaluated for the rest of the period (page 4-3, lines 33-34). Thus, when statistical analyses are done, only 18¹ years represent the data concerning the alternatives being considered. The remaining 34 years are based upon a common alternative. In many cases, the data presented provide probabilities of this aggregate sample,

¹ 2008-2026= 18 years.

making the impact of the alternative being evaluated a minor component of the aggregate data being presented.

The Community would recommend that all of the alternatives be modeled through the full period rather than the 2026 period. The irrigation delivery system that will deliver Colorado River water via the Central Arizona Project on the Community is scheduled for completion in 2029. By the time the system is completed, allowing for full delivery and benefit of the Arizona Water Settlements Act of 2004, there are only three years left on the guidelines and the modeling does not address what might then be the Preferred Alternative for the balance of the modeling period.

This type of modeling is highly misleading. Either data showing the impacts through 2026 should be provided or the various alternatives should be continued for the duration of the model. The Community requests that the data be provided or that alternatives continued for the duration of the model.

Comment 4:

The terms of the Mexican Treaty only provide that there will be sharing of shortages. It is inconsistent and probably impracticable to assume that Mexico takes its share of the shortages based solely on the Lower Basin supplies while, at the same time, assuming that the Upper Basin States are expected to share in the shortage. A more likely assumption is that Mexico accepts its pro-rata share of all waters in the Colorado River, which would increase the portion of the supply shorted to Nevada and the Central Arizona Project. As commented with regard to the Upper Basin assumptions, there has been no sensitivity study made concerning the human/legal impacts. The model merely assumes that Mexico shares in the shortages on the Colorado River.

Comment 5:

In Appendix P, it is indicated that various data will be presented, specifically including a section on the water delivery sections. However, the table of contents does not show any such section and, in scrolling through the Appendix P, does not show any such section.

Comment 6:

At paragraph 4.15.8, the EIS concludes that there is no significant impact on Indian Trust assets. However, the EIS does not adequately address the impacts on CAP supplies to the Central Arizona Tribes, specifically including the Gila River Indian Reservation.

Comment 7:

Many Central Arizona Project contracts exist with Tribes for delivery of water. The EIS does not address those contracts. The EIS does not adequately address those contracts with a discussion of BOR's fiduciary duty to protect Tribal water rights.

Comment 8:

Specific comment on the Conservation Alternative: While the Community does not object to the concept of conservation, if the water is going to be maintained in the Lower Colorado River Dams, then the release of that water should be restricted to times of normal or surplus supply. The Community understands that the modeling is based upon this assumption. This assumption is critical to the operation of the conservation before storage method and must be considered in

an integral matter with that alternative. If diversions are permitted to occur at the desire of the beneficiary, *i.e.*, environmental interests, then it is highly likely that additional releases will occur at exactly the same time and will exacerbate any shortages that occur to the users. This will create a much more erratic supply than would otherwise exist.

Comment 9:

Specific comment on the Water Supply Alternative: While it provides short-term supplies, it fails to recognize or prepare for the time when shortages will start to occur; such that, by 2026, shortages could occur of a substantial magnitude. It is highly beneficial to users and environmental activities to provide a relatively constant and dependable supply for natural and human use.

The Gila River Indian Community currently receives a highly erratic supply from the Gila River. Even with substantial conservation capacity in Coolidge Dam, there is dramatic variability from year to year in the water supply. The Community has learned from bitter experience how this variability can dramatically impact the ability of its members to farm and maintain their farmland. This can lead to great hardship for the members and government of the Gila River Indian Community.

Comment 10:

Specific comment on the Reservoir Storage Alternative: While the Community believes in the concept of preserving the water to create as stable a supply as possible, it appears from Tables 4.4-5, 6, and 7, that this option reaches too far towards that goal. Severe shortages over 600,000 acre-feet become highly prevalent very early, yet it appears that no such restrictions are needed for the future.

Comment 11:

Specific comment on the Basin States Alternative: In the worst case scenario, the magnitude of the shortages here are less severe than in the Reservoir Shortage Alternative. The water supply alternative, as presented, clearly indicates this is simply borrowing against the future--since dramatic shortages are probable beginning in 2027, when the criteria are revised. Long-term sustainability is probably one of the most critical interests to the Community.

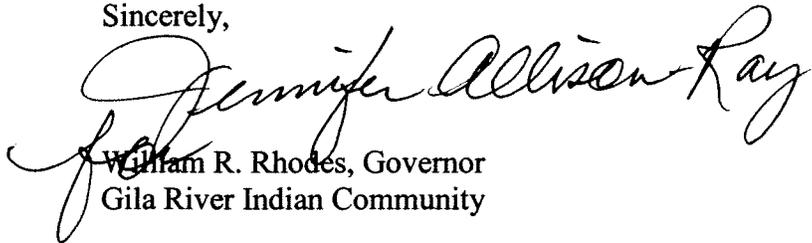
The Community requests that the Bureau of Reclamation provide the Community with modeling of the 75 million in any consecutive 10-year period to allow the Community to evaluate its risks *vis a vis* the highly contentious issue of the required releases by the Upper Basin States.

Comment 12:

The Gila River Indian Community will be significantly impacted, as will all of the Central Arizona Tribes that receive their allocations through the Central Arizona Project. All of the alternatives, other than the No-Action Alternative, will extend a modified ISG through 2026. This provision allows other entities to utilize "surplus" Colorado River water while all of the Central Arizona Tribes and the five Colorado River Tribes are tied to consumptive use or take or lose deliveries.

If there are any questions regarding this letter, please contact Ann Marie Chischilly at the Office of Water Rights at 520-796-1344x3.

Sincerely,



William R. Rhodes, Governor
Gila River Indian Community

cc: Jennifer Giff, GRIC General Counsel
Margaret Cook, GRIC Department of Environmental Quality Director

Upper Basin Consumptive Use

