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April 30, 2007

Via Facsimile (702) 293-8156

Regional Director
 Bureau of Reclamation
 Lower Colorado Regional Office
 P.O. Box 61470
 Boulder City, Nevada 89006-1470

Re: Comments of Quechan Indian Tribe on Draft EIS re Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead, **BCOO-1000**

Dear Regional Director:

On behalf of the Quechan Indian Tribe, we submit the following comments on the Draft Environmental Impact Statement regarding the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead, BCOO-1000.

The Quechan Tribe's Fort Yuma Reservation was established at its current site in 1884, which gave the Tribe, under federal law, reserved rights to water in the Colorado River with a priority date of 1884. *See Arizona v. California I*, 376 U.S. 344 (1964); *Arizona v. California II*, 460 U.S. 605 (1983); *Arizona v. California* (consolidated decree), 126 S. Ct. 1543 (2006). Pursuant to the 2006 Supreme Court decree, the Tribe has diversion rights of 71,616 acre-feet per year in California and diversion rights of 6,350 acre-feet per year in Arizona. These rights have a priority date of 1884.

The DEIS correctly states that water deliveries to the Fort Yuma Indian Reservation may not be restricted, due to the senior priority of the Tribe's reserved water rights. *See, e.g., DEIS* at 4-213 ("water deliveries to the . . . Fort Yuma Indian Reservation will not be affected by the proposed federal action due to their early priority dates"). It appears that none of the alternatives analyzed by the Bureau would have a detrimental effect on the exercise or use of the Tribe's reserved water rights. However, as trustee to the Tribe, the Bureau of Reclamation has a continuing obligation to ensure that the Bureau's implementation of shortage guidelines, in practice, has no detrimental impact on the Tribe's water rights or the Tribe's future exercise and use of its water rights. The Tribe requests that the Bureau ensure that shortage guidelines, if

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adopted, are implemented in a manner consistent with the Tribe's water rights and the Bureau's trust obligation to the Tribe.

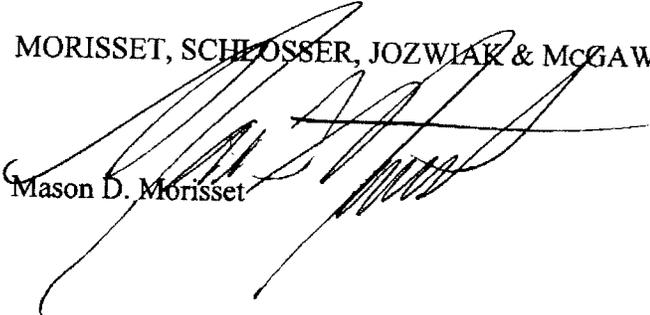
Although operations under the interim shortage guidelines will not affect water deliveries to the Tribe, variations in flow releases from upstream reservoirs could have an impact on habitat on and around the Fort Yuma Indian Reservation. The current DEIS contains relatively little discussion of potential impacts to habitat between Imperial Dam and the NIB, an area that includes habitat on and around the reservation.

The Tribe requests that the Bureau give further consideration to the following issues. First, to what extent will the variation in *timing* of flows have an effect on the vegetation resources that are adjacent to the Colorado River on and nearby the Fort Yuma Indian Reservation? For example, implementation of shortage guidelines may result in variations in the timing and duration of high or low flow events in the area between Imperial Dam and the NIB. Specifically, will there be any variation in the timing of flood flows that could negatively impact the Yuma East Wetlands located along the Fort Yuma Indian Reservation that are currently being restored by the Tribe and other agencies? The health of the riparian wetland areas depends, in large part, on the continued existence of high flow events. Second, to what extent will the variation in flows, both in terms of timing and quantity, impact groundwater on and nearby the Fort Yuma Indian Reservation? There does not appear to be any significant evaluation of potential impacts to groundwater on the reservation in the current DEIS.

The Tribe appreciates the opportunity to comment on the Bureau's DEIS. The Tribe requests that the Bureau continue to keep the Tribe directly informed as the proposed development of shortage guidelines moves forward.

Sincerely yours,

MORISSET, SCHLOSSER, JOZWIAK & MCGAW



Mason D. Morisset

cc: Mike Jackson, Sr., President

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FACSIMILE TRANSMITTAL SHEET

TO/FAX NO: Regional Director, Bureau of Reclamation
Lower Colorado Regional Office/(702) 293-8156

FROM: Mason D. Morisset
Morisset, Schlosser, Jozwiak & McGaw

REGARDING: Comments of Quechan Indian Tribe on Draft EIS re Colorado River
Interim Guidelines for Lower Basin Shortages and Coordinated
Operations for Lake Powell and Lake Mead, **BCOO-1000**

NO. OF PAGES: 3 (including this sheet) CLI/MAT NO: 0267/09751

PLEASE DELIVER TO ADDRESSEE AS SOON AS POSSIBLE. THANK YOU.

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