

**The States of Arizona, California, Colorado, Nevada,
New Mexico, Utah and Wyoming
Governor's Representatives on Colorado River Operations**

November 30, 2007

Honorable Dirk Kempthorne, Secretary
Department of the Interior
1849 C. Street, NW
Washington, D.C. 20240

Robert W. Johnson, Commissioner
Bureau of Reclamation
1849 C. Street, NW
Washington, D.C. 20240

Re: Comment to Final Environmental Impact Statement

Dear Secretary Kempthorne and Commissioner Johnson:

We are writing to provide our comment to the Final Environmental Impact Statement published at <http://www.usbr.gov/lc/region/programs/strategies/.html> pursuant to the Federal Register Notice of Availability at 72 Fed. Reg. 62272 (November 2, 2007) (“FEIS”), and in particular to the Updated Draft Colorado River Interim Guidelines published at the same website on November 16, 2007 (“Bureau Draft Guidelines”).

Bureau of Reclamation (“Bureau”) and Department of Interior (“Department”) staff have worked diligently with the seven Colorado River Basin States (“7-States”) and others to develop an impact statement and guidelines that will inform the Secretary’s decision concerning the storage in and release of water from Lakes Mead and Powell. We appreciate their extraordinary efforts.

As part of this process, the 7-States submitted to you Proposed Guidelines for management of Lakes Mead and Powell during both shortage and surplus conditions (“States’ Proposed Guidelines”), together with an Agreement asking the Secretary to adopt the States’ Proposed Guidelines in a record of decision to be issued by the end of this year. The 7-States also submitted separate comments to the Bureau on the Draft Environmental Impact Statement that convey the importance of protecting their respective interests on the Colorado River. The Bureau then announced a preferred alternative, based in large part on the States’ Proposed Guidelines, and sought input on finalizing the operational guidelines for inclusion in the FEIS.

Following announcement of the preferred alternative, a disagreement developed among the 7-States concerning key provisions on coordinated reservoir operations as described in the States’ Proposed Guidelines. The States tried to resolve this disagreement through several consultations among themselves and with the Bureau and Department. While the States made progress in resolving their disagreement, they were

unable to reach final agreement. The Lower Division States argued that the States' Proposed Guidelines provided that when Lake Powell contents were in the equalization tier, limited constraint on releases from Lake Powell should be imposed, and that the contents of Lakes Powell and Mead should be balanced. The Upper Division States argued that the States' Proposed Guidelines would impose a constraint down to an 8.23 MAF release for the balance of the year when Lake Powell elevations drop to the equalization table elevations set forth in the States' Proposed Guidelines.

As noted above, the Bureau has published Bureau Draft Guidelines that may be included in a record of decision to be issued by the Secretary. The Bureau Draft Guidelines are different in a number of respects from the States' Proposed Guidelines, including in particular in the equalization tier operations of Lake Powell. Each of the 7-States has certain objections to aspects of the Bureau Draft Guidelines. Nevertheless, in the interest of gaining additional experience in coordinated reservoir operations for an interim period to 2026, we hereby advise you that we will not oppose the adoption of the Bureau Draft Guidelines in a record of decision.

In addition to developing the States' Proposed Guidelines, the 7-States have been working with the Bureau and Department to develop Delivery Agreements and a Forbearance Agreement necessary to implement operations under the Bureau Draft Guidelines. Assuming these Agreements and exhibits have been approved by the appropriate parties prior to the issuance of the record of decision by the Secretary, we wish to advise you that the appropriate parties will be prepared to execute these Agreements after we have had an opportunity to review the record of decision issued by the Secretary to ensure it is consistent with the Bureau Draft Guidelines and the States' Proposal.

Moreover, as more specifically set forth in the Basin States' Agreement ("Agreement") submitted to you with the States' Proposed Guidelines, the 7-States reserve, and shall not be deemed to have waived, any and all rights, including any claims or defenses, they may have as of the date hereof or as may accrue during the term of the Agreement, under any existing federal or state law or administrative rule, regulation or guideline, including without limitation the Colorado River Compact, the Upper Colorado River Basin Compact, the Consolidated Decree in *Arizona v. California*, the Colorado River Basin Project Act of 1968, the Mexican Water Treaty of 1944, and any other applicable provision of federal law, rule, regulation, or guideline. Nothing herein or in the Agreement shall, during the term of the Agreement or afterward, preclude any of the 7-States from enforcing the provisions of the Colorado River Compact. This reservation of rights and non-waiver extends specifically to the Bureau Draft Guidelines, should those provisions be adopted by the Secretary in a record of decision.

Again, thank you for the efforts of the federal government in working with the Basin States in these matters. We believe the Bureau Draft Guidelines, if adopted by the Secretary, represent a significant and historic milestone, reflecting the continuation of the

consultative approach to river management between the federal government and affected states on the Colorado River.

Sincerely,

Governors' Representatives
Colorado River Basin States



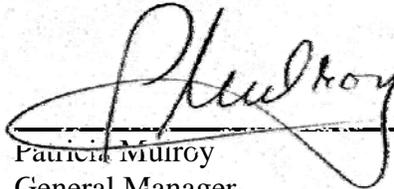
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Colorado River Board of California



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Governor's Representative
State of Colorado



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Southern Nevada Water Authority



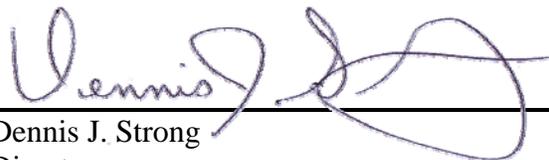
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