



UPPER COLORADO RIVER COMMISSION

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July 7, 2023

Wayne Pullan, Regional Director
Bureau of Reclamation
125 South State Street, Room 8100
Salt Lake City, Utah 84138

VIA ELECTRONIC MAIL

UCBEfficiency@usbr.gov

Re: Request for Input for the Upper Colorado River Basin System Conservation and Efficiency Program UCB-100, 2.2.4.23

Dear Director Pullan:

On behalf of the States of Colorado, New Mexico, Utah, and Wyoming (collectively, the “Upper Division States”), acting through the Upper Colorado River Commission (“UCRC”), I write in response to your June 22, 2023, letter to interested parties. In the letter, you request input on the types and nature of projects, project selection criteria, and project administration considerations that the Bureau of Reclamation (“Reclamation”) should consider in implementing Phase 2 of the distribution of Inflation Reduction Act (“IRA”) funds.

There is a remarkable track record of successful collaboration between Reclamation and the Upper Division States through the UCRC, particularly over the past decade. Collectively, we have implemented the 2019 Upper Basin Drought Contingency Plan, the 2015-2018 System Conservation Pilot Program (“SCPP”) and, most recently, the 2023 SCPP, including the rapid deployment of IRA Phase 1 projects, moving from notice of intent to project implementation in four months (Dec ’22 – April ’23). We also collaboratively developed a process to implement, and implemented, the Infrastructure Investment and Jobs Act in the Upper Division States. The UCRC is the appropriate vehicle for collaboration between the Upper Division States and Reclamation in the Upper Colorado River Basin. Accordingly, we advocate following a similar model of working together for the implementation of IRA Phase 2 (“Phase 2”).

In addition to collaboration with the UCRC, the Upper Division States’ water administration and development agencies will be critical to the identification of and successful and consistent implementation of Phase 2 projects. Those agencies control the administration and distribution of water rights, can help ensure that voluntary water conservation and drought mitigation projects designed to benefit the Upper Basin do not injure existing water rights, and, if necessary, may provide water rights enforcement mechanisms for Phase 2 projects in compliance with state law.

For these reasons, Reclamation should coordinate with the UCRC and, as in previous Reclamation – UCRC partnerships, provide funding to the UCRC to administer Phase 2 with the Upper Division States. The Upper Division States, through the UCRC, and Reclamation can develop project selection and funding criteria to meet the purpose and intent of Phase 2. The UCRC will work with the Upper Division States’ appropriate water administration and development agencies to develop and execute contracts with the water users in each Upper Division State. This approach will take advantage of the water rights administration, management, and enforcement mechanisms in compliance with each state’s law. For these reasons and because contracts between Reclamation and Upper Division States’ water users may potentially conflict with the existing authorities of the UCRC and the Upper Division States, the Upper Division States would oppose any Phase 2 implementation plan that does not direct Phase 2 funding through the UCRC and allow for participation by the water rights administration and development agencies of each of the Upper Division States.

Based on our past collaboration, we are confident that Reclamation can accommodate our requests for implementing Phase 2. We look forward to working with Reclamation to implement Phase 2 and maximize its benefits to the Colorado River in the Upper Basin.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. R. Cullom', with a long horizontal flourish extending to the right.

Charles R. Cullom
Executive Director