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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

STATE OF NEVADA, COLORADO
RIVER COMMISSION OF NEVADA, and
SOUTHERN NEVADA WATER
AUTHORITY,

Plaintiffs,

v.

DOUG BURGUM, in his official capacity as
Secretary of the Department of the Interior,
U.S. DEPARTMENT OF THE INTERIOR,

Case No. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 a federal agency, U.S. BUREAU OF)
 2 RECLAMATION, an agency withing the)
 3 U.S. Department of the Interior, and)
 4 AUBREY BETTENCOURT, in her official)
 capacity exercising the delegated authority of)
 the Commissioner of the U.S. Bureau of)
 Reclamation,)
 5 Defendants.)

6)
 7 The State of Nevada, Colorado River Commission of Nevada (“CRCN”), and Southern
 8 Nevada Water Authority (“SNWA”) (collectively, “Nevada”) bring this action for declaratory
 9 and injunctive relief against Doug Burgum, Secretary of the Department of the Interior (the
 10 “Secretary”); the Department of the Interior (“DOI”); U.S Bureau of Reclamation; and Aubrey
 11 J.D. Bettencourt, the Principal Deputy Commissioner (exercising the delegated authority of the
 12 Commissioner) for the U.S. Bureau of Reclamation (collectively, “Federal Defendants”).
 13 Nevada requests a declaration that the Federal Defendants’ (i) August 21, 2026 Record of
 14 Decision on the “Decision Framework for Colorado River Guidelines: Coordinated Operations
 15 of Lake Powell and Lake Mead (2027-2036),” (ii) Final Environmental Impact Statement for
 16 the Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead (July
 17 2026), and (iii) “Operating Guidelines, Colorado River Guidelines for Coordinated Operations
 18 of Lake Powell and Lake Mead, Operating Years 2027 and 2028” (August 2026) are in
 19 violation the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, the National
 20 Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4370h, and the Law of the River, as
 21 defined below, and request an injunction halting the implementation of same by the Federal
 22 Defendants and by anyone acting in concert or participation with the Federal Defendants to
 23 implement the same.

24 INTRODUCTION

25 1. On August 21, 2026, the Bureau of Reclamation (“Reclamation”) issued its
 26 Record of Decision (“ROD”) on the previously released (on July 31, 2026) Final
 27 Environmental Impact Statement for the Post-2026 Operational Guidelines and Strategies for
 28

1 Lake Powell and Lake Mead (“Final EIS”). The Colorado River Basin provides essential water
2 supplies to approximately 40 million people and nearly 5.5 million acres of agricultural lands.
3 The ROD and Final EIS challenged here establish new guidelines and management strategies
4 for the operation of Lake Powell and Lake Mead on the Lower Colorado River, to take effect
5 when current operating agreements expire in 2026. These strategies primarily focus on the
6 operation of Glen Canyon and Hoover Dams.

7 2. The Final EIS indicates that the federal action is intended to address the
8 following operational elements:

9 a. Identification of circumstances under which the Secretary would allocate
10 the annual amount of water available for consumptive use from Lake Mead to the Lower Basin
11 States (Arizona, California, and Nevada) at, below, or above 7.5 million acre-feet (“maf”),
12 pursuant to the Supreme Court Decree in *Arizona v. California*, 376 U.S. 340 (1964) (Final
13 Decree entered in 2006).

14 b. Coordinated operations of Lake Powell and Lake Mead, particularly
15 under low reservoir conditions.

16 c. Storage and delivery of conserved water in Lake Mead and/or Lake
17 Powell to increase the flexibility to meet water use needs from both reservoirs, including the
18 storage and delivery of non-system water; exchanges; and water conserved through
19 extraordinary measures by or for tribal, agricultural, or municipal entities.

20 3. Nevada’s Colorado River water allocation is critical to the stability and viability
21 of southern Nevada, including Nevada’s largest metropolitan area—the Las Vegas Valley.
22 Nevada’s share of Colorado River water is 300,000 acre-feet per year (“afy”), a relatively
23 meager 3.3% of the water apportioned to the Lower Basin States and Mexico. Importantly,
24 Nevada’s Colorado River supply accounts for 90% of all water used in the Las Vegas Valley
25 today. Nevada, through the Colorado River Commission of Nevada and Southern Nevada
26 Water Authority, submitted written comments and participated in extensive negotiations with
27 the U.S. Department of the Interior, Reclamation, and other Basin States regarding how to
28 equitably share diminishing Colorado River supplies and submitted detailed comments on the

1 January 16, 2026, Draft Environmental Impact Statement (“Draft EIS”) and again on the Final
2 EIS. *See* 91 Fed. Reg. 48,385 (July 31, 2026) (notice of availability of Final EIS).

3 4. Nevada and the other Lower Basin States submitted an alternative to the
4 proposed action for inclusion in the NEPA analysis that Plaintiffs maintain fully complies with
5 the Law of the River and better satisfies the purpose and need of the proposed action than the
6 preferred alternative in the Final EIS. Federal Defendants failed to consider and carry forward
7 the Lower Basin States’ alternative. Instead, the Final EIS and ROD authorize the Secretary of
8 the Interior to impose on Nevada an annual reduction of 213,556 acre-feet at a 3.6 maf
9 shortage, which constitutes approximately 71% of Nevada’s Colorado River entitlement.
10 Furthermore, the federal defendants failed to analyze critical components of the Law of the
11 River that would lessen the shortage burden of the entire Lower Basin. The magnitude of such
12 shortages will cause acute environmental, socioeconomic, and health and human safety impacts
13 to southern Nevada. Federal Defendants failed to consider such impacts in any meaningful
14 way in the Final EIS.

15 **JURISDICTION AND VENUE**

16 5. The action arises under the Administrative Procedure Act, 5 U.S.C. §§ 701–706,
17 the National Environmental Policy Act, 42 U.S.C. §§ 4321–4370h, and the Law of the River
18 (as described below). It is brought pursuant to 28 U.S.C. § 1331 (federal question jurisdiction)
19 and 5 U.S.C. §§ 701–706 (APA).

20 6. An actual controversy exists between the parties within the meaning of 28
21 U.S.C. § 2201(a), and this Court may grant declaratory relief, injunctive relief, and other relief
22 pursuant to 28 U.S.C. §§ 1361, 2201–2202, and 5 U.S.C. §§ 705–706.

23 7. Venue is proper under 28 U.S.C. § 1391(e)(1). This civil action is brought
24 against agencies of the United States and officers and employees of the United States acting in
25 their official capacities and under the color of legal authority, a substantial part of the events
26 giving rise to the claims occurred in the District of Nevada, and the Plaintiffs reside in Nevada.

27 8. The challenged actions are subject to judicial review under 5 U.S.C. §§ 702,
28 704, and 706.

THE PARTIES

9. Plaintiff STATE OF NEVADA (“Nevada”) is one of the seven Basin States with rights to Colorado River flows. Nevada is situated in the Lower Basin, along with California and Arizona.

10. Plaintiff COLORADO RIVER COMMISSION OF NEVADA (“CRCN”) is a state executive agency that manages and protects Nevada’s Colorado River allocation of water resources and electrical power. The Commission represents Nevada in negotiations with other Colorado River Basin states regarding basin-wide water shortages, conservation policies, and river operations. It has participated in negotiations with the U.S. Department of the Interior, the Bureau of Reclamation, and the other Basin States regarding post-2026 Colorado River operations and submitted detailed comments on the Draft EIS and the Final EIS.

11. Plaintiff SOUTHERN NEVADA WATER AUTHORITY (“SNWA”) is a regional, cooperative agency formed in 1991 as a political subdivision of Nevada to manage water treatment, delivery, conservation, and long-term water resources for the Las Vegas Valley. It comprises seven local water and wastewater agencies in the Las Vegas Valley. Collectively, the member agencies serve more than 40 million southern Nevada visitors every year and more than 2.3 million residents in Boulder City, Henderson, Las Vegas, North Las Vegas, and unincorporated areas of Clark County, Nevada. SNWA’s responsibilities include allocating and distributing among its member water providers Nevada’s Colorado River water allocation. On behalf of Nevada, SNWA has participated together with CRCN in negotiations with the U.S. Department of the Interior, the Bureau of Reclamation, and the other Basin States regarding post-2026 Colorado River operations and submitted detailed comments on the Draft EIS and the Final EIS.

12. Defendant DOUG BURGUM, United States Secretary of the Interior, is the highest-ranking official within the U.S. Department of the Interior and, in that capacity, and is ultimately responsible for implementing and complying with federal laws governing the operations of Lake Powell and Lake Mead. He is sued in his official capacity.

13. Defendant U.S. DEPARTMENT OF THE INTERIOR is the department within the executive branch that has supervisory control over the U.S. Bureau of Reclamation and is responsible for implementing and complying with federal laws relating to the operations of Lake Powell and Lake Mead.

14. Defendant U.S. BUREAU OF RECLAMATION is the agency within the Department of the Interior that is responsible for implementing and complying with federal laws relating to the operations of Lake Powell and Lake Mead.

15. Defendant AUBREY J.D. BETTENCOURT, the Principal Deputy Commissioner for the Bureau of Reclamation, exercising the delegated authority of the Commissioner of the Bureau of Reclamation, is responsible for implementing and complying with federal laws relating to the operations of Lake Powell and Lake Mead. She is sued in her official capacity.

LEGAL BACKGROUND

The Law of the River

16. The Colorado River is managed and operated under numerous compacts, treaties, federal laws, court decisions and decrees, contracts, and regulatory guidelines collectively known as the “Law of the River.” The Law of the River documents that underlie Nevada’s claims are set forth below.

17. The Colorado River Compact (“Compact”), negotiated among the seven Basin States in 1922, is the cornerstone of the Law of the River. The Compact divides the River into an Upper and Lower Basin, with the dividing point located at Lee Ferry Gaging Station in Arizona (“Lee Ferry”), upstream of the Grand Canyon and below Glen Canyon Dam and Lake Powell. The Upper Basin States (Colorado, Utah, Wyoming, and New Mexico) (also referred to as the “Upper Basin”) and Lower Basin States (Nevada, Arizona, and California) (also referred to as the “Lower Basin”) were each allocated half of the river flows, i.e., 7.5 maf of river water annually. The Compact has two additional provisions that impact the Upper Basin allocation. *First*, the Upper Basin must supply one half of the United States’ obligation to the Republic of Mexico (750,000 afy) when there is insufficient surplus water over and above the

1 amounts allocated to the Upper and Lower Basin under the Compact. *Second*, “[t]he States of
2 the Upper [Basin] will not cause the flow of the river at Lee Ferry to be depleted below an
3 aggregate of 75,000,000 acre-feet [75 maf] for any period of ten consecutive years reckoned in
4 continuing progressive series beginning with the first day of October next succeeding the
5 ratification of this compact.” Compact arts. III(c) & III(d). Pursuant to these provisions, and
6 provided there is insufficient surplus water in the system to fully satisfy the obligation to
7 Mexico, the Lower Basin States have the authority to make a “compact call,” i.e., request that
8 the Upper Basin take actions necessary to ensure that not less than 82.5 maf flow past Lee
9 Ferry in any 10-year period.

10 18. The Boulder Canyon Project Act of 1928 ratified the Colorado River Compact
11 and authorized construction of Hoover Dam. Pub. L. No. 70-642, 45 Stat. 1057 (1928)
12 (codified at 43 U.S.C. §§ 617-617t). In relevant part, it also presumptively approved a Lower
13 Basin compact that would apportion the Lower Basin’s 7.5 maf among Arizona (2.8 maf),
14 California (4.4 maf), and Nevada (0.3 maf), and gave the Secretary of the Interior the sole
15 authority to enter into contracts with users in the Lower Basin, which contracts the Secretary
16 thereafter issued in the same proportions.

17 19. Under the Mexican Water Treaty of 1944, 1.5 maf of Colorado River flows
18 were allocated to Mexico. Treaty Regarding Utilization of Waters of Colorado and Tijuana
19 Rivers and of the Rio Grande, U.S.-Mex., Feb. 3, 1944, 59 Stat. 1219, T.S. 994 (1944).

20 20. The Upper Colorado River Basin Compact of 1948 apportioned the flows
21 among the Upper Basin States of Colorado (51.75%), New Mexico (11.25%), Utah (23%), and
22 Wyoming (14%). It also apportioned 50,000 afy to Arizona because a portion of Arizona lies
23 geographically above Lee Ferry. Pub. L. No. 81-37, 63 Stat. 31.

24 21. In 1956, Congress passed the Colorado River Storage Project Act (“CRSPA”),
25 43 U.S.C. §§ 620-620o, which authorized a comprehensive water development plan for the
26 Upper Basin that included the construction of Glen Canyon Dam and other Upper Basin
27 facilities (Flaming Gorge Unit in Utah, Wayne N. Aspinall Unit in Colorado, and Navajo Unit
28

1 in New Mexico) (collectively the “CRSP Units”). Operation of the facilities in the CRSP Units
2 is governed by records of decision signed in 2006, 2012, and 2006, respectively.

3 22. In 1963, the U.S. Supreme Court decided *Arizona v. California*, 376 U.S. 340
4 (1963). The dispute in that case was over Arizona’s proposed use of tributary water from the
5 Gila River before it commingled with Colorado River flows outside of Arizona’s Colorado
6 River apportionment. The Supreme Court ruled that Lower Basin States have a right to
7 appropriate and use tributary flows before they reach the Colorado River. The Court also
8 confirmed the Lower Basin’s mainstream apportionments of 2.8 maf for Arizona, 4.4 maf for
9 California, and 0.3 maf for Nevada. The Court acknowledged Colorado River rights in
10 American Indian and other federal reservations.

11 23. In the Colorado River Basin Project Act of 1968 (“CRBPA”), Congress
12 authorized construction of the Central Arizona Project. Pub. L. No. 90-537, 82 Stat. 885
13 (1968) (codified at 43 U.S.C. §§ 1501-1556). Congress also directed the Secretary to prepare,
14 in consultation with the Basin States, annual long-range operating criteria (“LROC”) for the
15 Colorado River reservoir system. Pub. L. No. 90-537, Title VI, § 602, 82 Stat. 900 (codified at
16 43 U.S.C. § 1552(a)-(b)). The LROC can only be modified after consultation with the Basin
17 States and are required to be formally reviewed every five years. The LROC review process
18 requires public involvement.

19 24. In 1970, the Department of the Interior released its Criteria for Coordinated
20 Long-Range Operation of Colorado River Reservoirs, providing coordinated operations of
21 Lake Powell and Lake Mead. Article II(2) of that document states that the “objective shall be
22 to maintain a minimum release of water from Lake Powell of 8.23 [maf].” Modifications to
23 the operating criteria were made in 2005.

24 25. In 2006, the Supreme Court issued a consolidated decree in *Arizona v.*
25 *California*, 547 U.S. 150 (2006). Section II(B)(3) of that decree provides:

26 If insufficient mainstream water is available for release, as determined by the
27 Secretary of the Interior, to satisfy annual consumptive use of 7,500,000 acre-feet
28 in the aforesaid three States [Arizona, California, and Nevada], then the Secretary
of the Interior, after providing for satisfaction of present perfected rights in the

1 order of their priority dates without regard to state lines and after consultation
2 with the parties to major delivery contracts and such representatives as the
3 respective States may designate, may apportion the amount remaining available
4 for consumptive use in such manner as is consistent with the Boulder Canyon
5 Project Act as interpreted by the opinion of this Court herein, and with other
6 applicable federal statutes, but in no event shall more than 4,400,000 acre-feet be
7 apportioned for use in California including all present perfected rights.

8 *Id.* at 155-56.

9 26. In 2007, Reclamation finalized the Colorado River Interim Guidelines for
10 Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead. The
11 2007 Interim Guidelines are considered by Reclamation to be an implementation of the LROC.
12 In 2020, the 2007 Interim Guidelines underwent extensive formal review. By their terms, the
13 guidelines are set to expire at the end of the 2026 operating year. Notice of Availability, 72
14 Fed. Reg. 9026 (Feb. 28, 2007).

15 **National Environmental Policy Act**

16 27. NEPA, 42 U.S.C. §§ 4321–4336f, is intended to ensure that agency decision
17 makers are informed of the environmental effects of proposed federal actions and that relevant
18 information is made available to the public so that it “may also play a role in both the
19 decisionmaking process and the implementation of that decision.” *Robertson v. Methow Valley*
20 *Citizens Council*, 490 U.S. 332, 349 (1989). NEPA “ensures that the agency and the public are
21 aware of the environmental consequences of proposed projects. Properly applied, NEPA helps
22 agencies to make better decisions and to ensure good project management.” *Seven County*
23 *Infrastructure Coalition v. Eagle County*, 605 U.S. 168, 177 (2025).

24 28. NEPA’s twin aims are to ensure federal agencies “consider every significant
25 aspect of the environmental impacts of a proposed action” and “inform the public that it has
26 indeed considered environmental concerns in its decisionmaking process.” *Balt. Gas & Elec.*
27 *Co. v. NRDC*, 462 U.S. 87, 97 (1983). NEPA established “a set of ‘action-forcing’ procedures
28 that require that agencies take a ‘hard look’ at environmental consequences.” *Robertson*, 490
U.S. at 350 (citation omitted).

1 29. NEPA requires federal agencies to prepare an EIS for “major Federal actions
2 significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C).

3 30. Among other things, the EIS must analyze the “reasonably foreseeable
4 environmental effects of the proposed agency action,” including “adverse” effects that “cannot
5 be avoided should the proposal be implemented”; “a reasonable range of alternatives to the
6 proposed action”; “the relationship between local short-term uses of man’s environment and
7 the maintenance and enhancement of long-term productivity”; and “any irreversible and
8 irretrievable commitments of Federal resources which would be involved in the proposed
9 agency action should it be implemented.” 42 U.S.C. § 4332(2)(C)(i)-(v).

10 31. NEPA requires that agencies “ensure the professional integrity, including
11 scientific integrity of the discussion and analysis in an [EIS],” “make use of reliable data and
12 resources in carrying out [NEPA],” and consistent with NEPA, “study, develop, and describe
13 technically and economically feasible alternatives.” 42 U.S.C. § 4332(2)(D)-(F).

14 32. In preparing alternatives, an agency must “study, develop, and describe
15 appropriate alternatives to recommended courses of action in any proposal which involves
16 unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C.
17 § 4332(2)(H).

18 33. For an EIS, an agency must publish a notice of intent to prepare the EIS,
19 including “a request for public comment on alternatives or impacts and on relevant
20 information, studies, or analyses with respect to the proposed agency action.” 42 U.S.C.
21 § 4336a(c).

22 34. NEPA requires “to the fullest extent possible” that “the policies, regulations,
23 and public laws of the United States shall be interpreted and administered [by the agency] in
24 accordance with the policies set forth” in NEPA. 42 U.S.C. § 4332(1).

25 35. NEPA requires consideration of connected actions in a single NEPA document
26 if they are closely related. *See* U.S. Department of the Interior, Handbook of National
27 Environmental Policy Act Implementing Procedures, 516 DM 1, Appendix 1, § 11.8 (Feb.
28 2026) (“Dep’t of the Interior, 2026 NEPA Procedures”) (In making a significance

1 determination, the procedures require agencies to “consider, as appropriate to the proposed
2 action, any connected actions, the scope of the affected area (national, regional, or local),
3 reasonably foreseeable trends and planned actions within that area, and the affected area’s
4 natural and cultural resources.”).

5 36. NEPA requires that agencies “request the participation of each cooperating
6 agency at the earliest practicable time” and “give consideration to any analysis or proposal
7 created by a cooperating agency.” 42 U.S.C. § 4336a(a)(2)(B). A cooperating agency is a
8 federal, state, tribal, or local agency “that has jurisdiction by law or special expertise with
9 respect to any environmental impact involved in a proposal.” *Id.* § 4336a(a)(3).

10 **Administrative Procedure Act**

11 37. The APA, which applies to all federal agencies, provides the procedures
12 governing federal decisionmaking. 5 U.S.C. §§ 551-559.

13 38. The APA also waives sovereign immunity and allows persons or organizations
14 to challenge final agency actions in the federal courts. 5 U.S.C. §§ 702, 704.

15 39. The APA declares that a court shall hold unlawful and set aside agency actions
16 found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
17 law; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or
18 without observance of procedures required by law. 5 U.S.C. § 706(2)(A), (C), (D).

19 40. Under the APA’s arbitrary and capricious standard of review, the agency “must
20 examine the relevant data and articulate a satisfactory explanation for its action,” including a
21 rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n*
22 *v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotations omitted). An
23 agency action is arbitrary or capricious if the agency “has relied on factors which Congress has
24 not intended it to consider, entirely failed to consider an important aspect of the problem,
25 offered an explanation for its decision that runs counter to the evidence before the agency, or is
26 so implausible that it could not be ascribed to a difference in view or the project of agency
27 expertise.” *Id.*

FACTUAL ALLEGATIONS

Colorado River Management in Shortage Conditions

41. Since the Colorado River Compact was signed over 100 years ago, Colorado River flows have varied annually from 5.0 maf to 23.0 maf. Between 1906 and 2025, the average Colorado River flows at Lee Ferry were approximately 14.6 maf. The average annual flow at Lee Ferry from 2000 to 2025 was 12.3 maf. *See* Final EIS at 1-11 to 1-13.

42. Since 2000, the Colorado River Basin has been in a period of unprecedented and ongoing drought that has decreased available Colorado River flows.

43. In response to worsening drought conditions in the Colorado River Basin, in 2007, Reclamation finalized the Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead. By their terms, the guidelines are set to expire at the end of the 2026 operating year.

44. In 2004, Reclamation adopted interim storage guidelines for Lake Powell, also in effect through 2026. Notice of Adoption of an Interim 602(a) Storage Guideline for Management of the Colorado River, 69 Fed. Reg. 28,945 (May 19, 2004).

45. Since the 2007 Interim Guidelines were issued, the Lower Basin States have made significant efforts to conserve Colorado River water that have reduced overall water use. Regardless, shortage conditions continue to persist and worsen. *E.g.*, Bureau of Reclamation, “July 2026 Most Probable 24-Month Study” (Jul. 15, 2026) (documenting that “historically dry conditions persisted in WY [water year] 2026 and reservoir conditions were projected to decline”).

46. In 2019, the Basin States collaborated on the development of two Drought Contingency Plans (“DCPs”)—the Upper Basin DCP and the Lower Basin DCP. The 2019 DCPs are supplemental to and in furtherance of the goals of the 2007 Interim Guidelines. Most provisions of the DCPs expire at the end of 2026.

Nevada’s Water Conservation Efforts

47. Nevada has a long and well-documented history of conserving water and reducing existing uses to protect the Colorado River. Nevada’s conservation measures include

(a) voluntarily conserving 3.0 maf leading up to 2026; (b) reducing water consumption from 325,000 acre-feet (105.9 billion gallons) in 2002 to 198,570 acre-feet (65 billion gallons) in 2025 despite an increase of 875,000 new residents; (c) establishing a new conservation goal of 86 gallons per capita per day by 2035; and (d) storing more than 2.2 million acre-feet of water for future use including approximately 900,000 acre-feet in Lake Mead, eleven times Nevada's 2025 consumptive Colorado River water use.

DOI's Proposed Colorado River Post-2026 Operational Guidelines

48. With the 2007 Interim Guidelines and most provisions of the DCPs set to expire during the 2026 operational year, Reclamation began efforts to negotiate and adopt a new set of guidelines for post-2026 operations of Lake Powell and Lake Mead.

49. On June 16, 2023, Reclamation issued the notice of intent to "Prepare an Environmental Impact Statement and Notice to Solicit Comments and Hold Public Scoping Meetings on the Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead," 88 Fed. Reg. 39455 (June 16, 2023). The Lower Basin States submitted joint scoping comments regarding the same. *See* Letter to Reclamation from Lower Basin States, at 1 (Aug. 15, 2023). On October 20, 2023, Reclamation issued its notice of availability of its "Scoping Summary Report on the Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead." 88 Fed. Reg. 72,535 (Oct. 20, 2023).

50. On January 17, 2025, Reclamation released a document entitled "Alternatives Report: Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead" (the "Alternatives Report"). In a February 13, 2025 letter to Reclamation regarding the Alternatives Report, the Lower Basin States submitted comments, emphasizing that "[t]he analysis and modeling of compliance with the Colorado River Compact of 1922 (the 'Compact') in all alternatives is mandatory pursuant to NEPA's informed decision-making and public disclosure requirements and is critical to understanding the real-world implications of each alternative. Doing so could encourage development of a consensus-based approach. However, Reclamation's failure to interpret and disclose application of the Law of the River,

1 particularly the implications of a likely Compact Call, falls short of the minimum requirements
2 of NEPA and leaves stakeholders to speculate regarding Reclamation's intentions regarding
3 future Colorado River operations during low-flow conditions."

4 51. In January 2026, Reclamation released its Draft EIS examining in detail five
5 alternatives for Colorado River reservoir operations. Notice of Availability, 91 Fed. Reg. 2131
6 (Jan. 16, 2026). No preferred alternative was identified. At the time, the Basin States were
7 negotiating a mutually agreeable plan for reservoir operation, and Reclamation hoped to adopt
8 a plan endorsed by the Basin States.

9 52. On March 2, 2026, Nevada submitted extensive comments on the Draft EIS.
10 Nevada pointed out that, since the onset of the drought, Nevada has made extraordinary efforts
11 to reduce its water use by 40% even as southern Nevada's population served by Colorado
12 River water increased by 875,000 people. **Exhibit A.** Nevada emphasized that this investment
13 in conservation must be fully credited as part of any final operating plan. Nevada also
14 identified a number of ways in which Reclamation's alternatives failed to meet the basic
15 requirements of the Law of the River for deliveries to the Lower Basin State in times of
16 shortage. Critically, Reclamation failed to adequately consider the detailed alternative
17 approach submitted by the Lower Basin States. Nevada also identified a number of
18 environmental and socioeconomic effects that were not adequately considered in
19 Reclamation's NEPA analysis.

20 53. The Basin States were unable to reach consensus regarding post-2026 reservoir
21 operations.

22 54. On July 31, 2026, Reclamation released the Final EIS and preferred alternative
23 for Colorado River Post-2026 Operations of Lake Powell and Lake Mead. 91 Fed. Reg. 48,385
24 (July 31, 2026). The Final EIS does not respond directly or in any meaningful way to key
25 portions of Nevada's comments on the Draft EIS.

26 55. The Final EIS details the preferred alternative, which Reclamation describes as
27 an adaptive approach that establishes a wide range of operations with flexibility to develop
28

1 operating guidelines that ensure reliable operations while responding to changing conditions
2 over the next 10 years.

3 56. On August 12, 2026, Nevada submitted comments on the Final EIS specifically
4 addressing legal deficiencies in Reclamation's Shortage Allocation Model as applied in the
5 preferred alternative. **Exhibit B.**

6 **Analysis of Protecting Infrastructure of Glen Canyon Dam**

7 57. The Final EIS identifies an operational constraint "common to all alternatives"
8 which limits releases from Lake Powell at elevations below 3,490 feet to protect infrastructure
9 at Glen Canyon Dam at low elevations. *See* Final EIS at 2-18 ("Releases from Glen Canyon
10 Dam may be unable to achieve the specified annual release volume when Lake Powell is below
11 elevation 3,490 feet due to infrastructure constraints."); Final EIS, Appx. A, at A-15 to A-16.

12 58. Once Lake Powell falls below 3,490 feet, releases are made through four river
13 outlet works. "[R]eleases below this elevation are constrained; extended operations through
14 the river outlet works may cause cavitation damage, tailrace scour and sediment deposition,
15 and could compromise the reliability and operational flexibility of Glen Canyon Dam and
16 affect the ability to meet critical downstream water supply needs." Final EIS, Technical
17 Appendix 3 (Hydrologic Resources), at 3-31, Table TA 3-2. "Infrastructure concerns
18 associated with the uncertainty of extended operations through the river outlet works as the
19 sole means of sustained water releases from Glen Canyon Dam include potential cavitation
20 damage to the outlet works pipes at low reservoir elevations, tailrace scour and sediment
21 deposition at the downstream base of the dam, and the potential for additional unknown issues
22 from operating the outlet works for extended periods. Any one of these factors could
23 compromise the reliability and operational flexibility of Glen Canyon Dam and affect the
24 ability to meet critical downstream water supply needs." Final EIS at 1-22.

25 59. Notwithstanding the above, Reclamation provides no analysis of measures to
26 adequately address defects in Glen Canyon Dam infrastructure, including quantification of
27 sustainable outlet capacity as Lake Powell drops, wear/failure risk analysis for frequent use,
28 contingency if some aspect of the dam must be taken out of service, and no discussion or

1 acknowledgement of Reclamation's obligations to make necessary repairs and modifications.
2 Nor does the Final EIS include reparations of the Glen Canyon Dam as a connected action, but
3 erroneously claims that infrastructure reparations can be addressed in separate NEPA
4 processes.

5 **Analysis of Socioeconomic Effects**

6 60. The Final EIS's analysis of socioeconomic effects focuses on impacts from
7 changes in agricultural production, impacts from changes in recreation use, and impacts to
8 ecosystem services and nonmarket values. Final EIS at 3-182. The Final EIS describes
9 ecosystems services and nonmarket values as benefits that are not reflected in market
10 transactions but that contribute to community well-being, cultural identity, and the recreational
11 experience, such as scenic quality, sense of place, ecological integrity, and cultural connections
12 to the Colorado River corridor. *Id.* at 3-186. Absent from the Final EIS is any evaluation of
13 the reasonably foreseeable direct, indirect, or cumulative socioeconomic effects to municipal
14 water users or municipal water agencies from decreased supply and water shortages. It
15 contains no analysis of the very real and dire economic effects to millions of municipal water
16 users if the taps are turned off or water use must be significantly curtailed.

17 61. For example, the Final EIS's section on population and land use effects
18 recognizes that "in some scenarios, municipalities could even find the need to pursue
19 alternative water sources or hauled water, if available, as an alternative to support continued
20 services." *Id.* at 3-210. Yet the socioeconomic section fails to consider the costs or other
21 effects of meeting municipal demands through the use of hauled water.

22 62. In addition, the Final EIS's consideration of socioeconomic effects in Nevada is
23 inappropriately limited to Clark County, *id.* at 3-182, overlooking the fact that water shortages
24 in Clark County, Nevada, which is the state's largest metropolitan area, will affect the entire
25 state. There is no acknowledgment that contraction of Clark County's economy has
26 implications for the economy of the state as a whole, including the functioning of state
27 government services on a broad scale.

28 63. The socioeconomic effects analysis also does not consider the greater financial

1 impact of reduced water deliveries on communities, such as those in southern Nevada, that
2 have already implemented extensive water-conservation measures to reduce per capita water
3 use, leaving fewer options for additional conservation, as compared to those communities
4 where water conservation has been less of a priority and thus have additional lower-cost
5 options to respond reduced to water deliveries.

6 64. While the Final EIS quantifies the potential economic losses in agricultural and
7 river-based recreation sectors from reduced water deliveries, *id.* at 3-189–191, it fails to
8 similarly quantify the potential economic losses caused by reduced water deliveries to
9 municipal and industrial users, including, for instance, costs that may result from changes to
10 bond ratings, increased borrowing costs, reductions in urban landscape/tree canopy, increased
11 extreme urban heat, and increased rate pressure on users. This disparate treatment allows the
12 Final EIS to obscure the full extent of economic and social costs to cities like Las Vegas, North
13 Las Vegas, Boulder City, and Henderson, Nevada. The area’s economy is roughly
14 \$180,000,000,000 annually, and water is needed to drive every dollar. Yet, there is no
15 meaningful analysis of what happens to Las Vegas, its residents, the environment, or southern
16 Nevada’s economy when 71% of its water supply disappears.

17 **Record of Decision and 2027-2028 Operating Guidelines**

18 65. On August 21, 2026, Reclamation issued its ROD. **Exhibit C.** Pursuant to the
19 ROD, Reclamation also issued Operating Guidelines for 2027 and 2028 (“2027-2028
20 Operating Guidelines”). **Exhibit D.**

21 66. The “Decision Framework” adopted by the ROD is intended to remain in effect
22 through the 2036 Operating Year “unless modified or superseded by subsequent Federal
23 action.” ROD at 30. Federal Defendants intend to implement the ROD through the issuance of
24 subsequent “Operating Guidelines” issued in two-year intervals unless the Secretary
25 determines a different number of years is appropriate.” *Id.* at 3.

26 67. The ROD contemplates that the Lower Basin States may recommend, as part of
27 the operational program, the creation and delivery of Intentionally Created Surplus (“ICS”)-
28

1 type programs, conservation pools and exchange mechanisms contingent on forbearance
2 agreements executed by the Lower Basin States.

3 68. The 2027-2028 Operating Guidelines governing operations of Lake Powell
4 establish three elevation ranges (Upper Elevation, Mid-Elevation, and Low Elevation
5 Infrastructure Protection) with corresponding annual release volumes between 6.0 maf and
6 8.23 maf. Federal Defendants intend that the initial annual volume chosen will maintain Lake
7 Powell elevation above 3,510 ft with adjusted releases down to a minimum of 5.0 maf.

8 69. The 2027-2028 Operating Guidelines further envision that additional releases
9 will be made from the CRSP Units, subject to hydrologic conditions, if Lake Powell releases
10 fall below 7.0 maf.

11 70. Regarding Lake Mead operations, the 2027-2028 Operating Guidelines call for
12 reductions of 1.25 maf (exclusive of reductions to Mexico) in 2027 and in 2028. If Lake Mead
13 elevations are projected to fall below 1,010 ft, Reclamation must consult and coordinate with
14 the Basin States, Basin Tribes, and other affected parties to consider potential actions
15 throughout the Basin to respond to and address hydrologic and operational conditions.

16 71. The 2027-2028 Operating Guidelines also contemplate a “federally managed
17 water resources pool” to meet federal firming or other federal obligations pursuant to
18 Congressionally authorized Indian water rights settlements and to provide limited tribal
19 shortage offsets up to 25% of reduced entitlements with a maximum water accumulation limit
20 of 450,000 acre-feet.

21 72. As a result of Federal Defendants’ issuance of the Final FEIS, ROD, and 2027-
22 2028 Operating Guidelines, Nevada stands to experience a shortfall of 213,556 acre-feet at a
23 3.6 maf shortage, which constitutes approximately 71% of Nevada’s Colorado River
24 entitlement. This shortfall will cause devastating environmental, socioeconomic, and health
25 and human safety impacts to southern Nevada and its citizens.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Violation of the APA, NEPA, and the Law of the River: Failure to Interpret and Correctly Apply the Law of the River)

73. Nevada incorporates the prior allegations as if fully set forth herein.

74. NEPA requires “to the fullest extent possible” that “the policies, regulations, and public laws of the United States shall be **interpreted** and administered [by the agency] in accordance with the policies set forth” in NEPA. 42 U.S.C. § 4332(1) (emphasis added). Where an agency fails to identify, interpret, and apply applicable law that affects the analysis and outcome of the proposed action, courts hold that the agency’s decision is arbitrary and capricious. *See, e.g., Western Watersheds Project v. Kraayenbrink*, 632 F.3d 72, 493 (9th Cir. 2010) (by failing to “consider the impact of the Regulations . . . BLM entirely failed to consider an important aspect of the problem,” and therefore its no effect decision under the Endangered Species Act and NEPA analysis was arbitrary and capricious.).

75. While the Final EIS asserts that “Reclamation will follow all relevant provisions of federal law to implement the proposed federal action, including relevant provisions of the Law of the River,” Final EIS at R-4, Federal Defendants repeatedly state that they do not interpret the requirements imposed on the Federal Defendants pursuant to the Law of the River even though NEPA and the APA require the same. *See, e.g.,* Final EIS at R-2 (“[T]his EIS does not attempt to **interpret** specific questions related to the Law of the River.”) (emphasis added); *id.* at R-8 (“These modeling assumptions are not intended to **interpret** specific provisions of the Law of the River”) (emphasis added); *id.* at R-3 (“While differing interpretations exist regarding the scope and application of certain authorities, this EIS is not intended to resolve or opine on such legal interpretations.”); *id.* at R-21 (“the EIS does not resolve disputed legal interpretations” governing application of the Law of the River to the proposed action); *id.* at R-26 (“The EIS does not establish new **legal interpretations**, resolve contested questions about the 1922 Compact or other authorities, or modify existing governance frameworks.”) (emphases added).

1 76. Federal Defendants concede that the “EIS specifically includes a methodology
2 that is inconsistent with the Decree and CRBPA (i.e. distribution of reductions pro rata to all
3 entities that receive water from the mainstream in the Lower Basin pursuant to the Decree).”
4 *Id.* at R-10.

5 77. Federal Defendants concede that the EIS analysis did not identify “Compact
6 compliance assumptions.” FEIS at R-20 to R-21. But the Law of the River directs “[a]ll
7 Federal officers and agencies” to “comply” with the Compact “in the storage and release of
8 water from all reservoirs and in the operation and maintenance of all facilities in the Colorado
9 River system.” CRBPA § 601(a), (c), 43 U.S.C. § 1551(a), (c).

10 78. Federal Defendants further concede in the ROD that “differences exist with
11 respect to certain provisions contained in the Law of River and the proper application of those
12 provisions.” ROD at 38. Notwithstanding Federal Defendants’ recognition that they are bound
13 by the Law of the River, Federal Defendants expressly decline to interpret and apply the Law
14 of the River in the ROD and 2027-2028 Operating Guidelines, stating: “The terms of this
15 Decision Framework, and any Operating Guidelines issued pursuant to this Decision
16 Framework shall not represent interpretations of existing law by the Secretary or assert any
17 authority for the Secretary to deviate from the Law of the River, nor predetermine in any
18 manner the means of operation that the Secretary may adopt following this Decision
19 Framework.” *Id.* Remarkably, the bedrock Law of the River—the Colorado River Compact—
20 is referenced only one time in the ROD and not at all in the Operating Guidelines.

21 79. Consequently, decisionmakers and stakeholders are left to guess at how Federal
22 Defendants interpret and apply the Law of the River, which all agree governs the proposed
23 action. Not surprisingly given the lack of transparency, the Final EIS contains many instances
24 in which the approach taken in the ROD and preferred alternative *violate* the Law of the River.
25 The following paragraphs provide several examples.

26 80. The Shortage Allocation Model fails to treat state apportioned shortages as co-
27 equal—as reflected in Final EIS, Appendix C, Table C-6, and Final EIS, Chapter 2, Tables 2-3
28 (2027-2028 Shortage Distribution) and 2-4 (2029-2060 Shortage Distribution)—under the

theory that present perfected rights holders would be impacted at shortages less than 3.27 maf because of the provision of the Colorado River Basin Project Act (“CRBPA”) shifting California’s responsibility for shortages to Arizona until the Central Arizona Project flows are reduced to zero. Federal Defendants’ implicit interpretation directly violates the CRBPA, which explicitly requires that “[w]ater users in the State of Nevada shall not be required to bear shortages in any proportion greater than would have been imposed in the absence of [the shortage shifting provision].” CRBPA § 301(b), 43 U.S.C. § 1521(b).

81. Federal Defendants failed to consider the exercise of authority to operate the CRSP Units (Flaming Gorge, Blue Mesa, and Navajo Reservoirs) in compliance with the Law of the River and NEPA. Even though “the proposed federal action has, from the outset, contemplated the use of CRSP Upper Initial Units” (including “outside those RODs, if necessary”), Federal Defendants failed to update the prior NEPA analysis associated with the existing RODs or to modify the RODs governing operations of the CRSP Units. *See* FEIS at R-4 to R-5.0

82. Furthermore, even though any operations of the CRSP Units to address the purpose and need of the proposed action constitute a connected action, Federal Defendants erroneously claimed authority to undertake “separate NEPA processes” regarding the same. *Id.* at R-5 (“Proactively changing operations of CRSP Upper Initial Units beyond their existing RODs, along with other connected actions, is not part of the proposed action and can be analyzed through separate NEPA processes if warranted.”). *See* CRSPA § 4, 43 U.S.C. § 620c (“All units and participating projects shall be subject to the apportionments of the use of water between the Upper and Lower Basins of the Colorado River and among the States of the Upper Basin fixed in the Colorado River Compact and the Upper Colorado River Basin Compact[.]”).

83. None of the alternatives comply with the Law of the River, or the 1970 Long-Range Operating Criteria, which remain in effect notwithstanding issuance of the ROD.

84. Federal Defendants failed to describe under the preferred alternative (as well as under each alternative carried forward in the NEPA analysis) what additional authority Federal Defendants would need to meet the purpose and need and to comply with the Law of the River.

85. Federal Defendants failed to consider an alternative based on seeking modifications of LROC. FEIS at R-4.

86. Federal Defendants failed to comply with 43 C.F.R. Part 417 (“Procedural Methods for Implementing Colorado River Water Conservation Measures with Lower Basin Contractors and Others”) in connection with the development of the alternatives considered and carried forward in the EIS.

87. For all of these reasons, Federal Defendants’ actions and omissions regarding the proposed action violate NEPA and are arbitrary, capricious, an abuse of discretion, not in accordance with law, without observance of procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA, 5 U.S.C. § 706, entitling Plaintiffs to the relief requested below.

**SECOND CAUSE OF ACTION
(Violation of the APA and NEPA:**

Failure to Consider a Reasonable Range of Alternatives)

88. Nevada incorporates the prior allegations as if fully set forth herein.

89. NEPA requires that agencies prepare a detailed EIS that analyzes “a reasonable range of alternatives to the proposed agency action . . . that are technically and economically feasible, and meet the purpose and need of the proposal.” 42 U.S.C. § 4332(2)(C)(iii). In such analysis, agencies shall “utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man’s environment.” *Id.* § 4332(2)(A). Moreover, NEPA requires that agencies “study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” *Id.* § 4332(2)(E).

90. Federal Defendants have failed to consider and analyze a reasonable range of alternatives to the proposed action, as required by NEPA and Department of the Interior NEPA procedures. Examples of Federal Defendants’ failure to adequately consider and

1 analyze a range of reasonable alternatives to the proposed action include but are not limited to
2 the following:

- 3 a. Failure to consider a true and legally sufficient “no action” alternative that
4 accurately reflects baseline conditions;
- 5 b. Advancing an impermissibly narrow purpose and need statement that
6 inappropriately constrained consideration of a reasonable range of alternatives;
- 7 c. Failure to consider and carry forward in the NEPA analysis the Lower Basin
8 States’ Alternative, and to consider whether it better meets the purpose and need
9 for the proposed action and better complies with the Law of the River;
- 10 d. Failure to consider a long-term alternative or connected action to address Glen
11 Canyon’s infrastructure limitations;
- 12 e. Failure to consider an engineered solution alternative to address Glen Canyon’s
13 infrastructure limitations without burdening and adversely impacting Lower
14 Basin water users;
- 15 f. Failure to consider an alternative consisting of both voluntary and mandatory
16 conservation measures and reductions applicable to both the Upper Basin States
17 and Lower Basin States;
- 18 g. Failure to consider *any* mandatory conservation measures or specific voluntary
19 conservation measures while assuming without any basis “that voluntary
20 conservation targets would be achieved.” *See* FEIS at R-6;
- 21 h. Failure to consider under each alternative Lake Mead’s Protection Pool and
22 Conservation Reserve and interrelationships with intentionally created surplus
23 accounts;
- 24 i. Failure to consider under each alternative Nevada’s contractual rights to
25 withdraw Lake Mead water during dead-pool conditions;
- 26 j. Failure to adequately and transparently consider the effects of evaporation and
27 consider under each alternative equitable reductions of evaporation and storage
28 losses;

- k. Failure to consider under any alternative conservation opportunities available now or that could become available to Mexico;
- l. Failure to consider under any alternative measures to equitably reduce water distributions during low-flow conditions between the Upper Basin States and Lower Basin States;
- m. Failure to consider a phased alternative that implements short-term and long-term measures to meet the purpose and need of the proposed action.

91. For all of these reasons, Federal Defendants’ actions and omissions regarding the proposed action violate NEPA and are arbitrary, capricious, an abuse of discretion, not in accordance with law, without observance of procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA, 5 U.S.C. § 706, entitling Plaintiffs to the relief requested below.

**THIRD CAUSE OF ACTION
(Violation of the APA and NEPA:
Failure to Adequately Consider Environmental Effects)**

92. Nevada incorporates the prior allegations as if fully set forth herein.

93. NEPA requires Federal Defendants to prepare an environmental impact statement for all “major Federal actions significantly affecting the quality of the human environment” and that the EIS analyze all “reasonably foreseeable environmental effects of the proposed agency action” and “any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented.” 42 U.S.C. § 4332(2)(C)(i)-(ii).

94. Federal Defendants have failed to consider and analyze all reasonably foreseeable environmental effects of the proposed action and all reasonably foreseeable adverse environmental effects that cannot be avoided should the proposal be implemented. Examples of Federal Defendants’ failure to adequately consider and analyze all reasonably foreseeable environmental effects include but are not limited to the following:

- a. Failure to consider economic, population, and land-use impacts on Nevada and its citizens;

- b. Failure to consider public health and safety impacts on Nevada and its citizens;
- c. Failure to consider protection of Lake Mead infrastructure and impacts to hydropower generation;
- d. Failure to consider impacts on Nevada arising from greater reliance on groundwater resources resulting from shortage allocations;
- e. Failure to consider impacts to Nevada's cultural and tribal resources; and
- f. Failure to consider a reasonably foreseeable "compact call" and the Secretary's obligations pursuant to the Law of the River and associated adverse environmental effects of the same;

95. Federal Defendants failed to disclose modeling assumptions and methodologies used to evaluate water deliveries and reservoir operations, including the reliability of water deliveries under low-flow conditions.

96. Federal Defendants failed to consider effects of each alternative on Nevada's reliance on the storage and delivery of conserved water in Lake Mead and/or Lake Powell, as well as the storage and delivery of non-system water; exchanges; and water conserved through extraordinary measures by or for tribal, agricultural, or municipal entities.

97. Federal Defendants concede that the Draft EIS's "choice to use Decision Making under Deep Uncertainty (DMDU)" and other methodologies lacked sufficient transparency and clarity to comply with NEPA. *See* FEIS at R-16, R-31 ("We agree with commenters that the Draft EIS was insufficient in the description and interpretation of results."). Federal Defendants failed to adequately address these and other deficiencies and improve the clarity of the NEPA analysis in the Final FEIS.

98. Federal Defendants failed to utilize and disclose an appropriate methodology, including sensitivity analyses, of the operational elements needed to analyze the effects of the range of alternatives in compliance with NEPA. Similarly, Federal Defendants excessively relied on qualitative analysis when quantitative analysis would have been more valuable to stakeholders and decisionmakers based on available data and methodology.

1 99. For all of these reasons, Federal Defendants’ actions and omissions regarding
 2 the proposed action violate NEPA and are arbitrary, capricious, an abuse of discretion, not in
 3 accordance with law, without observance of procedure required by law, and in excess of
 4 statutory jurisdiction, authority, or limitations, within the meaning of the APA, 5 U.S.C. § 706,
 5 entitling Plaintiffs to the relief requested below.

6
 7 **FOURTH CAUSE OF ACTION**
 8 **(Violation of the APA, NEPA, and CRBPA:**
 9 **Failure to Respond to Comments)**

10 100. Nevada incorporates the prior allegations as if fully set forth herein.

11 101. NEPA requires that “[e]ach notice of intent to prepare an environmental impact
 12 statement . . . shall include a request for public comment on alternatives or impacts and on
 13 relevant information, studies, or analyses with respect to the proposed agency action.” 42
 14 U.S.C. § 4336a(c). Once solicited, “an EIS has a duty to assess, consider, and respond to all
 15 comments[.]” (emphasis in original)). *Oregon Nat’l Res. Council v. Marsh*, 52 F.3d 1485,
 16 1490 (9th Cir. 1995); *Ohio v. EPA*, 603 U.S. 279, 293–94 (2024); Dep’t of the Interior, 2026
 17 NEPA Procedures, at 11 (Feb. 2026) (requiring “meaningful public comment” as soon as
 18 practicable in the NEPA process to prepare an EIS); CRPBA § 602(b), 43 U.S.C. § 1552(b)
 19 (requiring public review and comment on criteria for the coordinated long-range operation of
 20 the Colorado River reservoirs).

21 102. Final EIS Appendix R (Response to Public Comments) provides a thematic
 22 summary and response to some but not all public comments, but largely overlooks the vast
 23 majority of Nevada’s and other comments or provides no response at all.

24 103. For all of these reasons, Federal Defendants’ actions and omissions regarding
 25 the proposed action violate NEPA and are arbitrary, capricious, an abuse of discretion, not in
 26 accordance with law, without observance of procedure required by law, and in excess of
 27 statutory jurisdiction, authority, or limitations, within the meaning of the APA, 5 U.S.C. § 706,
 28 entitling Plaintiffs to the relief requested below.

**FIFTH CAUSE OF ACTION
(Violation of the APA and NEPA:
Failure to Adequately Analyze Mitigation Measures)**

104. Nevada incorporates the prior allegations as if fully set forth herein.

105. NEPA “requires bureaus to consider reasonable mitigation measures,” and that the ROD “[i]dentify mitigation measures and any associated monitoring and enforcement plans that have been selected to be implemented.” *E.g.*, Dep’t of the Interior, 2026 NEPA Procedures, at 6, 47 (Feb. 2026). Mitigation measures include “stipulations, conditions, or best management practices . . . designed to reduce or preclude adverse environmental effects that are required to . . . conform to applicable legal requirements, as well as any such design elements the applicant may volunteer to include.” *Id.* at 6. “The environmental effects of mitigation measures can be reviewed either as elements of alternatives or in a separate discussion of mitigation.” *Id.*

106. Federal Defendants failed to adequately and accurately define or analyze mitigation measures, and the effectiveness of those measures, as required by NEPA and the Department of the Interior NEPA procedures.

107. For all of these reasons, Federal Defendants’ actions and omissions regarding the proposed action violate NEPA and are arbitrary, capricious, an abuse of discretion, not in accordance with law, without observance of procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA, 5 U.S.C. § 706, entitling Plaintiffs to the relief requested below.

**SIXTH CAUSE OF ACTION
(Violation of the APA and NEPA:
Failure to Designate States and Local Governments as Cooperating Agencies)**

108. Nevada incorporates the prior allegations as if fully set forth herein.

109. NEPA requires that agencies “request the participation of each cooperating agency at the earliest practicable time” and “give consideration to any analysis or proposal created by a cooperating agency.” 42 U.S.C. § 4336a(a)(2)(B). A cooperating agency is a

1 federal, state, tribal, or local agency “that has jurisdiction by law or special expertise with
2 respect to any environmental impact involved in a proposal.” *Id.* § 4336a(a)(3).

3 110. Federal Defendants failed to invite the participation of state, regional, or local
4 Nevada governmental entities as cooperating agencies. Plaintiffs have significant technical
5 expertise in the environmental effects of Colorado River management on Nevada’s resources,
6 and a deep understanding of the importance of Nevada’s Colorado River apportionment to the
7 economic stability of not only Clark County, but affected communities throughout Nevada.
8 Federal Defendants did not avail themselves of this expertise, information, and participation.

9 111. For all of these reasons, Federal Defendants’ actions and omissions regarding
10 the proposed action violate NEPA and are arbitrary, capricious, an abuse of discretion, not in
11 accordance with law, without observance of procedure required by law, and in excess of
12 statutory jurisdiction, authority, or limitations, within the meaning of the APA, 5 U.S.C. § 706,
13 entitling Plaintiffs to the relief requested below.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Nevada respectfully requests that the Court:

- 16 A. Declare that the Federal Defendants are in violation of the APA, NEPA, and the
17 Law of the River.
- 18 B. Vacate Federal Defendants’ August 21, 2026 ROD on the “Decision Framework
19 for Colorado River Guidelines: Coordinated Operations of Lake Powell and Lake Mead (2027-
20 2036).”
- 21 C. Vacate Federal Defendants’ Final EIS for the Post-2026 Operational Guidelines
22 and Strategies for Lake Powell and Lake Mead (July 2026).
- 23 D. Vacate Federal Defendants’ “Operating Guidelines, Colorado River Guidelines
24 for Coordinated Operations of Lake Powell and Lake Mead, Operating Years 2027 and 2028”
25 (August 2026).
- 26 E. Enjoin the Federal Defendants’ implementation of the ROD and the Operating
27 Guidelines until such time as Federal Defendants comply with the APA, the Law of the River,
28 and NEPA.

1 F. Issue such additional relief as Nevada subsequently requests or that the Court
2 may deem just, proper, and equitable.

3 DATED this 24th day of August, 2026.

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5 AARON FORD
Attorney General

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EXHIBIT INDEX

EXHIBIT	DESCRIPTION	# OF PAGES
A	State of Nevada's Comments on the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead Draft Environmental Impact Statement (March 2, 2026)	
B	State of Nevada's Comments on the Shortage Allocation Model Set Forth in the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead Final Draft Environmental Impact Statement (Aug. 12, 2026)	
C	DOI, Office of the Secretary, Record of Decision, Decision Framework for Colorado River Guidelines: Coordinated Operations of Lake Powell and Lake Mead (2027–2036), July 2026 Final Environmental Impact Statement (Aug. 21, 2026)	
D	DOI, Office of the Secretary, Operating Guidelines, Colorado River Guidelines for Coordinated Operations of Lake Powell and Lake Mead, Operating Years 2027 and 2028 (Aug. 21, 2026)	

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**SOUTHERN NEVADA
WATER AUTHORITY**

STATE OF NEVADA



**COLORADO RIVER COMMISSION
OF NEVADA**

March 2, 2026

Via email
c/o crbpost2026@usbr.gov

Bureau of Reclamation
ATTN: Ms. Carly Jerla
BCOO-1000
P.O. Box 61470
Boulder City, NV 89006

Re: State of Nevada's Comments on the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead Draft Environmental Impact Statement

Dear Bureau of Reclamation and Ms. Jerla:

A top priority for Nevada is developing the next set of operating guidelines for the Colorado River. As you know, the current guidelines governing the operations of Lake Powell and Lake Mead only govern the system through the end of September 2026, and the process of formulating new guidelines for implementation is underway. This effort, including the associated National Environmental Policy Act (NEPA) process, is crucial to the future management of the Colorado River system and fundamental to the future health and vitality of the Southwestern United States.

This letter and its accompanying attachments contain the State of Nevada's comments on the Bureau of Reclamation's Draft Environmental Impact Statement on the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead (DEIS). But first, we need to make plain the context framing many of our comments. Our water users have sacrificed in the face of the worst Colorado River hydrology on record. Since the onset of drought in 2002, they have reduced their overall Colorado River water consumption by more than 40 percent even as our population grew by more than 875,000 people. And they, unlike so many others, have not ignored the reality facing the basin by making the flimsy argument that our economy cannot prosper while water consumption decreases. Simply put, any alternative evaluated or rule set adopted by Reclamation that fails to sufficiently credit their sacrifice is not acceptable.

Of particular concern is the DEIS's complete omission of compliance with the 1922 Colorado River Compact (the "Compact"), the foundation of the Law of the River, as a basis for the formulation and evaluation of alternatives in the DEIS, and as a basis for evaluating and disclosing the likely environmental consequences of those alternatives. Ignoring the Compact's requirements for deliveries to the Lower Basin States of Arizona, California, and Nevada in times of shortage is not a convenience at Reclamation's disposal when the Colorado River Basin has been mired in the driest period on record for more than 25 years. Yet every single alternative evaluated in the DEIS is presented as if the Compact, approved by each of the Basin States, Congress, and the President of the United States, was written in sand that disappeared long ago.

Additionally, the DEIS seeks to set the direction for future Colorado River operations while failing to consider and carry forward the Lower Basin States Alternative in the NEPA analysis. By cherry picking specific components of that alternative, Reclamation disregarded the integrity and benefits of the comprehensive proposal submitted by the Lower Basin States. And this choice, together with failing to present any Compact-compliant alternative, led Reclamation to ignore wholesale the environmental and social impacts likely to occur in the Upper Division States of Colorado, New Mexico, Utah, and Wyoming under the alternative.

Furthermore, the DEIS's approach to protecting the Glen Canyon Dam river outlet works by reducing releases from Lake Powell—rather than making infrastructure repairs and improvements—is shortsighted and harms Nevada and the Lower Basin States by slashing the water available to our farmers, communities, and economies. These profound impacts can be avoided by some combination of straight-forward engineering fixes, moving water to Lake Powell from upstream reservoirs when necessary, and imposing consumptive use reductions in the Upper Basin.

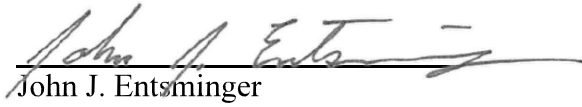
These fundamental issues, further detailed in the enclosed Attachment 1, have been repeatedly communicated to the Bureau of Reclamation and made clear in public discussions. Despite our well-documented objections during the last administration, these serious flaws were incorporated into the DEIS, undermining the negotiation process among the seven Basin States.

Accordingly, Nevada requests that the Bureau of Reclamation collaborate more expansively with the Basin States to prepare a new draft supplemental environmental impact statement analysis that fully complies with NEPA and the Law of the River. Specifically, at a minimum, the updated analysis should include:

- Full consideration of the Lower Basin States Alternative in the alternatives analysis;
- Full consideration of the Nevada Proposed Approach to Short- and Long-term Operations provided with these comments;
- Full consideration of alternatives and impacts relating to reparation of the Glen Canyon Dam river outlet works; and
- Reclamation's planned compliance with the Law of the River in all future analysis.

Thank you for your time and consideration in reviewing these comments. We look forward to working together in the months and years ahead.

Sincerely,



John J. Entsminger
Governor's Representative
State of Nevada
Southern Nevada Water Authority



Eric P. Witkoski
Executive Director
Colorado River Commission of
Nevada

cc:

Dr. Andrea Travnicek, Assistant Secretary of the U.S. Department of the Interior for Water and Science
Scott Cameron, Commissioner, Bureau of Reclamation
J.B. Hamby, Governor's Representative, State of California
Thomas Buschatzke, Governor's Representative, State of Arizona
Rebecca Mitchell, Governor's Representative, State of Colorado
Gene Schawcroft, Governor's Representative, State of Utah
Estevan Lopez, Governor's Representative, State of New Mexico
Brandon Gephart, Governor's Representative, State of Wyoming

Attachments:

Attachment 1: Nevada's DEIS Comments Document
Attachment 2: Nevada List of Errata/Missing Information in DEIS
Attachment 3: SNWA Technical Memorandum—"Comparing the Lower Basin Alternative with the DEIS Alternatives"
Attachment 4: Nevada Proposed Approach to Short- and Long-term Operations
Attachment 5: Index and Compilation of Exhibit Documents referenced in Nevada's Comments

ATTACHMENT 1

Nevada’s Comments Submitted by SNWA and CRCNV on the Post-2026 Colorado River Reservoir Operations Draft Environmental Impact Statement (March 2, 2026)

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INTRODUCTION

On January 16, 2026, the Bureau of Reclamation (“Reclamation”) issued its “Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead” Draft Environmental Impact Statement (“Draft EIS”).¹ As detailed below, the Draft EIS fails to satisfy the requirements of the National Environmental Policy Act (“NEPA”). Reclamation’s approach to managing the Colorado River reservoirs also fails to adequately account for and is inconsistent with the Law of the River. Accordingly, Southern Nevada Water Authority (“SNWA”) and the Colorado River Commission of Nevada (“CRCNV”), on behalf of the State of Nevada, request that the Secretary of the Interior² direct Reclamation to collaborate more expansively with the Basin States to prepare an environmental analysis that fully complies with NEPA and the Law of the River.³

Nevada specifically requests that all of its comments and the Attachments (as listed in the transmittal letter) be included as part of the administrative record in this matter. Nevada also requests that all documents, articles, reports, and other material cited in these Comments or the Attachments be included as part of the administrative record. If Reclamation is unable to locate any of the documents referenced by Nevada’s Comments that are not otherwise included in the Attachments here, copies may be obtained by contacting Steven Anderson, Deputy Counsel, SNWA.

¹ See 92 Fed. Reg. 2,131 (Jan. 16, 2026).

² The Secretary of the Interior must operate the Colorado River water delivery systems in compliance with the Law of the River. *E.g.*, Colorado River Basin Project Act (“CRBPA”) § 602(a)-(b), 43 U.S.C. § 1552(a)-(b) (directing the Secretary to consultatively develop operational criteria—known as Long-Range Operating Criteria (“LROC”)—for federally authorized Colorado River reservoirs); *see also Arizona v. California*, 376 U.S. 340 (1964).

³ For the purposes of these comments, the Law of the River consists of the Colorado River Compact of 1922, 43 U.S.C. § 617, the Consolidated Decree entered by the U.S. Supreme Court in the case of *Arizona v. California*, 547 U.S. 150 (2006) (Consolidated Decree), the 1944 Treaty with Mexico, LROC, the CRBPA § 602, 43 U.S.C. § 1501 et seq., and other legal requirements. *See* Draft EIS, Sec. 1.8.2.1, at 1-13 to 1-14. Draft EIS Table 1-1 also sets forth numerous other instruments and documents that comprise the Law of the River. *See* Draft EIS, Sec. 1.8.2.1, at 1-14.

BACKGROUND

Lower Basin States Conservation Efforts

Nevada, as part of the Lower Basin States, has demonstrated a long and well-documented history of taking actions to conserve water and reduce existing uses to protect the Colorado River:

- In a consensus-based proposal, the Lower Basin States voluntarily agreed to conserve 3 million acre-feet ("maf") leading up to 2026.⁴
- SNWA reduced water consumption from 325,000 acre-feet of water (105.9 billion gallons) in 2002, to 212,418 acre-feet (69 billion gallons) in 2024 despite an increase of 829,000 new residents.⁵
- SNWA established a new conservation goal of 86 gallons per capita per day by 2035.⁶

⁴ See Press Release, Dep't of the Interior, *Seven Basin states agree on analyzing consensus-based approach proposed by the Lower Basin* (May 22, 2023), available at <https://www.doi.gov/pressreleases/biden-harris-administration-announces-historic-consensus-system-conservation-proposal>.

⁵ Reclamation, *Colorado River Accounting and Water Use Report: Arizona, California, and Nevada* (for calendar year 2024), at 5 (May 2025), available at www.usbr.gov/lc/region/g4000/4200Rpts/DecreeRpt/2024/2024.pdf; see SNWA, 2026 *Water Resource Plan*, at 23 (2025) (referenced throughout as "SNWA 2026 Water Resource Plan") available at <https://www.snwa.com/assets/pdf/water-resource-plan-2026.pdf?lang=en>.

SNWA's current water conservation measures include the Water Smart Landscape Rebate Program (250 million square feet of grass has been removed, saving 203 billion gallons of water since 1999); Water Efficient Technologies Program (participating businesses have saved more than 24 billion gallons of water through the program since 2001); Water Smart Homes (nearly 17,000 homes were built using water conservation features via the program from 2005-2020, saving 14 billion gallons of water); and Pool Cover Instant Rebate Coupon Program (more than 45,000 coupons were distributed before the program was retired in June 2020, saving an estimated 5.6 billion gallons of water). See also SNWA, *What We're Doing to Conserve*, <https://www.snwa.com/water-resources/conservation-initiatives/index.html> (last visited Feb. 27, 2026).

⁶ SNWA 2026 Water Resource Plan, at 39. The updated edition of the landmark history, *Cadillac Desert*, praised SNWA's water conservation efforts: "Every drop issuing from the city's dishwashers, sinks, showers, carwashes, and even toilets is funneled through the sewer system into wastewater treatment facilities, and returned to the Colorado River and Lake Mead via the

- As described in SNWA's 2026 Water Resource Plan, "SNWA has stored more than 2.2 million acre-feet of water, eleven times Nevada's 2024 consumptive Colorado River water use."⁷

The Lower Basin States are committed to continuing and expanding those efforts. But the Lower Basin States cannot shoulder the burden of protecting the Colorado River on their own. To date, the Upper Basin States have been unwilling to contribute water to the Colorado River system in a volume that would avoid the Lower Basin States taking the full burden of dry hydrologic future conditions. Upper Basin States have received sharp criticism for failing to support and implement more water conservation programs.⁸

NEPA Alternatives Development Process and Lower Basin Alternative Submission

Reclamation began developing NEPA alternatives in late 2023. In March 2024, the Lower Basin States submitted their recommended alternative ("Lower Basin Alternative") to Reclamation for consideration in the ongoing NEPA process.⁹ Subsequent to the initial

Las Vegas Wash . . . Southern Nevada can and actually does pump much more water than its 300,000 acre-feet per year . . . Since 2000 [SNWA] has spent \$200 million in rebates for replacing grass with desert landscapes." MARC REISNER, *CADILLAC DESERT: THE AMERICAN WEST AND ITS DISAPPEARING WATER*, at 527 (1986, 2017 proscript to the revised edition, by Lawrie Mott).

⁷ SNWA 2026 Water Resource Plan, at 3.

⁸ See Sammy Roth, *These Four States Are in Denial Over a Looming Water Crisis*, NY Times (Feb. 2, 2026) ("[T]he Upper Basin states of Colorado, New Mexico, Utah and Wyoming have emerged as the main obstacles to a fair deal. They've gummed up negotiations by refusing to accept mandatory cuts of any amount — unlike the Lower Basin states, which have spent years slashing water use."), available at <https://www.nytimes.com/2026/02/02/opinion/water-shortage-colorado-river.html>; Jack Schmidt, Anne Castle, John Fleck, Eric Kuhn, Kathryn Sorensen, and Katherine Tara, *Analysis of Colorado River Basin Storage Suggests Need For Immediate Action*, at 8 n. 35 (Getches-Wilkinson Center, University of Colorado-Boulder, Sep. 11, 2025) ("Cumulative conservation in the Lower Basin for 2023 - 2025 is estimated at 2.93 million acre feet . . . Upper Basin conservation during the same time period was approximately 0.1 [maf], but it is unclear how much of that water ultimately made its way to Lake Powell.").

⁹ The Lower Basin States informed Reclamation why the Lower Basin Alternative is viable and environmentally beneficial. The Lower Basin Alternative "builds on the foundation of the Law of the River and proposes a more holistic and sustainable approach to managing the Colorado River system reservoirs. The Lower Basin Alternative shares proposed water use reductions fairly among the Lower Basin States and Mexico to satisfy the 1.5 maf of proposed reductions under most system conditions. Further, under the most critical system conditions, the Alternative shares water use reductions fairly between the Upper Basin and Lower Basin including Mexico. The Lower Basin Alternative contemplates a broad, fair, and equitable

submission of the Lower Basin Alternative in March 2024, in June and December 2024, the Lower Basin States requested that Reclamation evaluate compliance with the 1922 Colorado River Compact under each NEPA alternative. Also, in the December 2024 request, the Lower Basin States provided the Compact compliance assumptions to be incorporated into the Draft EIS alternatives, including:

- Required deliveries pursuant to Article III of the Compact.
- Compact Call by the Lower Basin States.
- Upper Basin curtailment or other reductions as necessary to comply with the Compact requirements.
- Actions by the United States in management of federal reservoirs.¹⁰

In November 2024, Reclamation issued a summary of the anticipated alternatives that Reclamation would carry forward for detailed analysis in the Draft EIS, which included:

- No action alternative
- Federal authorities alternative
- Federal authorities hybrid alternative
- Cooperative conservation alternative
- Basin hybrid alternative

These alternatives did not include the Lower Basin Alternative or the Upper Basin Alternative. Reclamation claimed in its Alternatives Report issued on January 17, 2025, that they did not satisfy the purpose and need for its proposed action.¹¹ Reclamation maintained

sharing of reductions such that no one state, sector or water user bears the entire burden of protecting the system.” Letter from Water Districts to Reclamation, at 3 (Mar. 6, 2024).

¹⁰ These assumptions were described more fully in correspondence. See Correspondence from J.B. Hamby, Chairman, Colorado River Board of California to Reclamation (Dec. 24, 2024 at 8:49:40 AM).

¹¹ See Reclamation, *Alternatives Report: Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead*, at 9 (Jan. 17, 2025) (“Alternatives Report”) (“Based on preliminary modeling results, Reclamation concluded that, as submitted in the spring of 2024, the Upper Division and Lower Division proposals do not provide an appropriate basis for comprehensive and coordinated operations of Lake Powell and Lake Mead, a necessary component of the purpose and need for this proposed action. During conversations with Basin State representatives, Reclamation identified and communicated concerns about imbalanced Basin impacts and lack of reservoir coordination.”), available at [https://www.usbr.gov/ColoradoRiverBasin/documents/post2026/alternatives/Post-2026 Alternatives Report 20250117 508.pdf](https://www.usbr.gov/ColoradoRiverBasin/documents/post2026/alternatives/Post-2026%20Alternatives%20Report%20250117%20508.pdf).

that the “Basin Hybrid Alternative” “reflects components of the proposals and concepts submitted by the . . . Lower Division States” and others, including the Upper Division States and Colorado River Basin Tribes.¹² The Lower Basin States objected to Reclamation’s cherry picking elements of the Lower Basin Alternative because the various elements of this alternative “work synergistically and . . . it would be inappropriate to separate individual elements and presume their stand-alone implementability.”¹³ The Lower Basin States also provided Reclamation an amended Lower Basin Alternative, which included refinements on the proposed releases from Lake Powell to better protect Lake Powell over the analysis period.¹⁴

On January 17, 2025, Reclamation published its Alternatives Report that described in more detail the five alternatives previously identified by Reclamation in its November 20, 2024, summary. In the Alternatives Report, Reclamation concluded that “as submitted in the spring of 2024” the Lower Basin States’ proposal did “not provide an appropriate basis for comprehensive and coordinated operations of Lake Powell and Lake Mead, a necessary component of the purpose and need for this proposed action.”¹⁵ Reclamation also claimed that it had “identified and communicated concerns about imbalanced Basin impacts and lack of reservoir coordination.”¹⁶

¹² *Id.* at ES-2 (“**Basin Hybrid Alternative** – This alternative reflects components of the proposals and concepts submitted by the Upper Division States, Lower Division States, and Colorado River Basin Tribes that could provide a basis for coordinated operations and may facilitate greater agreement across the Basin.”) (emphasis in original).

¹³ See Correspondence from Tom Buschatzke, Director, Arizona Department of Water Resources to Reclamation (Jan. 13, 2025 at 3:40:25 PM PST).

¹⁴ Specifically, in the original Lower Basin Alternative, the Lake Powell release criteria used an operational tier framework based on the combined system contents of Lake Powell and on the Upper Initial Units, namely Flaming Gorge, Blue Mesa, and Navajo Reservoirs (CRSP Capacity). Within this framework, the 30% to 80% operating tier relied on a three-year average of Upper Basin depletions to determine the water year release volume, while a CRSP Capacity below 80% could trigger a mid-year balancing adjustment. In contrast, the revised Lower Basin Alternative also used an operational tier approach based on CRSP Capacity, but differed in the capacity ranges defining each tier and added a 1.0 maf upward or downward adjustment to the water year release determination based on Lake Mead’s October 1st operating conditions. While both proposals shared the same upper release limit, they differed at the lower end, with the revised proposal considering a 5.5 maf release compared to the original proposal’s 6.0 maf minimum.

¹⁵ See Alternatives Report, Sec. 6.2, at 9.

¹⁶ *Id.*

On February 13, 2025, the Lower Basin States provided detailed comments to Reclamation on the Alternatives Report, and requested a meeting with Reclamation personnel “as soon as practicable” to, among other things, ensure that Reclamation fully understood the need for inclusion of the Lower Basin States Alternative in the Draft EIS because,

Without a detailed analysis of the Lower Basin Alternative, the EIS will not have considered a reasonable range of alternatives, will leave unevaluated a viable alternative that meets the project’s purpose and need and is distinguishable from the other alternatives that Reclamation has carried forward for detailed analysis. These detailed comments were never addressed. Reclamation must comply with NEPA in this process and must revise its alternatives accordingly.¹⁷

On January 16, 2026, Reclamation published and initiated public comment on the Draft EIS, which included the following alternatives slightly revised from the prior Alternatives Report:

- No Action Alternative
- Basic Coordination Alternative
- Enhanced Coordination Alternative
- Maximum Operational Flexibility Alternative
- Supply Driven Alternative

But again, Reclamation omitted from its consideration the Lower Basin Alternative. Instead, Reclamation claimed that one of its alternatives (this time the “Supply Driven Alternative”) “incorporates concepts from the separate proposals submitted by the Upper Division and Lower Division States, as well as ideas emerging from discussions with the Basin States during spring 2025.”¹⁸ Yet Reclamation refuses to consider and carry forward the Lower Basin Alternative, despite the fact that the Lower Basin Alternative better meets the purpose and need of the proposed action than the alternatives advanced by Reclamation in the Draft EIS, as demonstrated below.

¹⁷ See Letter from Lower Basin States to Doug Burgum, Secretary of the Interior, regarding “Perspectives from the Lower Basin States on the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead,” at 23–24 (Feb. 13, 2025).

¹⁸ Draft EIS, Sec. 2.1, at 2-2.

Current Low Flow and Megadrought Conditions

The Draft EIS acknowledges that water and other “resources are now at significant risk”:

[S]ince the onset of the current drought in 2000, the Basin’s primary reservoirs, Lake Powell and Lake Mead, have fallen to historically low elevations. Several of the major reservoir- and water-management documents and agreements developed to guide Colorado River operations through the persistently dry conditions expire in 2026, including the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines; Reclamation 2007), the 2019 Colorado River Drought Contingency Plans (DCPs, Reclamation 2019), and key international agreements between the United States and Mexico. Despite the significance of these agreements, actions taken over the past two decades have not been sufficiently robust to prevent continued decline of the reservoirs.¹⁹

Furthermore, on February 14, 2026, Reclamation released its “February 2026 Most Probable 24-Month Study,” which provided revised projections indicating that Glen Canyon Dam elevations could drop below minimum power pool (3,490 feet) as early as July 2026.²⁰

DISCUSSION

I. Reclamation’s Proposed Action Violates the Law of the River

Reclamation acknowledges that its proposed action must comply with the Law of the River:

[T]he Secretary intends to consider, adopt and implement the proposed federal action consistent with the Law of the River, including the Colorado River Compact of 1922 (Compact; 43 U.S. Code [USC] § 617l), the Consolidated Decree entered by the U.S. Supreme Court in the case of *Arizona v. California*, 547 U.S. 150

¹⁹ *Id.*, Sec. 1.1, at 1-1.

²⁰ Reclamation, *February 2026 Most Probable 24-Month Study* (Feb. 13, 2026), available at <https://www.usbr.gov/lc/region/g4000/24mo.pdf>; see Reclamation, *24-Month Study Inflow Scenarios* (Jan. 16, 2026).

(2006) (Consolidated Decree), and other provisions of applicable federal law.”²¹

And yet, **none of Reclamation’s alternatives comply with the Law of the River.**

A. None of the Alternatives in the Draft EIS Complies with the Compact

The Compact apportions to the Upper and Lower Basin States, “respectively, the exclusive beneficial consumptive use of 7,500,000 acre-feet of water per annum, which shall include all water necessary for the supply of any rights which may now exist.”²² Under Article III(d) of the Compact, “[t]he States of the Upper Division will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75,000,000 acre-feet [75 maf] for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of October next succeeding the ratification of this compact.” Furthermore, Compact Article III(c) requires the Upper Basin States to share in the annual obligation to deliver 1.5 maf of mainstream Colorado River water to Mexico.²³

Reclamation recognizes that “[t]he Lee Ferry Compact Point is the division point between the Upper Basin and the Lower Basin, as established by the 1922 Colorado River Compact,” and provides an analysis of its modeling for “for the 10-Year flow volumes at the Lee Ferry Compact Point under each alternative to assess how they perform over a range of hydrologic conditions.”²⁴ While the analysis provides useful information, the overall analytical approach fails to consider a reasonable outcome of a judicial determination that may constrain operations at Lee Ferry to a 10-year volume of 75 maf or 82.5 maf. **The analysis shows 10-year Lee Ferry Compact Point flows that would violate the Compact even under average flow conditions in some cases.** Moreover, Reclamation fails to analyze the impacts of these potential constraints on all affected resources and geographic areas. As a result, the analysis is unreasonably limited and insufficient to make a reasoned choice among alternatives to ensure

²¹ Draft EIS, Sec. 1.1, at 1-4 (referencing Compact, 43 U.S.C. § 617/) (footnotes and hyperlinks omitted).

²² Compact, Art. III(a).

²³ The annual Colorado River water debt owed to Mexico pursuant to international treaty obligations “shall be supplied first from the waters which are surplus over and above the aggregate of the quantities specified in paragraphs (a) and (b); and if such surplus shall prove insufficient for this purpose, then, the burden of such deficiency shall be equally borne by the Upper Basin and the Lower Basin, and whenever necessary the States of the **Upper Division shall deliver at Lee Ferry water to supply one-half of the deficiency** so recognized in addition to that provided in paragraph (d).” Compact, Art. III(c) (emphases added).

²⁴ Draft EIS, Tech. Appx. 3, Sec. TA 3.2.3, at 3-63 to 3-65 & Figure TA 3-23.

Compact compliance. Thus, if implemented, any of the Alternatives based upon Reclamation's own analysis would violate the Compact, and fail to satisfy NEPA's "hard look" requirement.²⁵ NEPA is not a shell game. NEPA requires that the lead agency identify and carry forward "reasonable alternatives" that "are technically and economically feasible, **meet the purpose and need** for the proposed action, are within the jurisdiction of the bureau, and, where applicable, meet the goals of the applicant."²⁶

Moreover, Article III(e) of the Compact provides that the Upper Basin States "shall not withhold water . . . which cannot reasonably be applied for domestic and agricultural uses." And the 2006 Supreme Court Decree prohibits Reclamation from treating unused water as "consumptive use" defined as "diversions from the stream less such return flow."²⁷ Reclamation fails to analyze and demonstrate compliance with these requirements under each alternative. Indeed, it appears from the modeling that during low flow conditions, each of the action alternatives violates delivery obligations to the Lower Basin States, as required by the Compact.

B. Reclamation Has Failed to Demonstrate How Each Alternative Complies with the 1968 and 1970 Long-Range Operating Criteria ("LROC")

Reclamation acknowledges that LROC Article II(2) states that the "objective shall be to maintain a minimum release of water from Lake Powell of 8.23 [maf]."²⁸ Reclamation recognizes that "variation in releases of water above and **below the minimum objective release of 8.23 maf** can, in **appropriate circumstances**, be adopted."²⁹ **Thus, Reclamation admits to failing to satisfy LROC during certain low flow conditions.** Yet, nowhere in its NEPA analysis does Reclamation explain what it believes are the "appropriate circumstances" for violating the "minimum" delivery requirements of LROC. Consequently, Reclamation's analysis

²⁵ See *Friends of Animals v. Burgum*, 164 F.4th 738 (9th Cir. 2026), 2026 U.S. App. LEXIS 897, at *17 (9th Cir. Jan. 14, 2026) ("NEPA does not contain substantive environmental standards, but instead establishes action-forcing procedures that require agencies to take a **hard look** at environmental consequences.") (citing *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1066 (9th Cir. 2002)) (emphasis added) (internal quotations omitted).

²⁶ DEP'T OF THE INTERIOR, HANDBOOK OF NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES, 516 DM 1, § 6.1(v), at 25 (Feb. 23, 2026) (emphasis added) (cited throughout as "DOI NEPA Implementing Procedures"), available at <https://www.doi.gov/document-library/handbook/516-dm-1-handbook-national-environmental-policy-act-implementing>.

²⁷ See Supreme Court Decree in *Arizona v. California*, 547 U.S. 150, 153, 156 (2006) (Secs. I(A) and II(B)(6)).

²⁸ Draft EIS, Sec. 2.4.2, at 2-9.

²⁹ *Id.* at 2-9 (emphases added).

lacks transparency and integrity regarding this mandatory legal requirement. NEPA requires that the responsible bureau official ensure that the underlying analysis reflects “professional integrity, including scientific integrity” and makes “use of reliable data and resources.”³⁰ The preamble to the Federal Register notice to the NEPA implementing regulations of the Department of the Interior (“DOI”) emphasizes the importance of doing so in connection with preparing the no action and other alternatives.³¹

C. Reclamation Must, But Has Failed, to Exercise Authority to Operate the CRSP Initial Units in Compliance with the Compact

The Colorado River Storage Project (“CRSP”) Act of 1956 authorized development of a comprehensive water development plan for the Upper Basin that included constructing Glen Canyon Dam and other facilities.³² The Colorado River Basin Project Act of 1968 (“CRBPA”) further establishes how such facilities would be operated to ensure required water deliveries below the CRSP reservoirs pursuant to Compact obligations and, as provided in CRBP Act § 602(a), water required to comply with the Mexican Water Treaty.³³ The relevant statutory language provides:

In order to comply with and carry out the provisions of the Colorado River Compact [of 1922], the Upper Colorado River Basin Compact, and the Mexican Water Treaty, the Secretary shall propose criteria for the coordinated long-range operation of [the CRSP reservoirs and Lake Mead] **[T]he criteria shall make provision for the storage of water in [CRSP Reservoirs] and**

³⁰ 42 U.S.C. § 4332(2)(D), (E); *see* Sec’y of the Interior Order No. 3441, Restoring Gold Standard Science (May 23, 2025); *see also* 43 C.F.R. § 46.105(c) (requiring bureau-directed contractors to submit professional integrity certifying the use of reliable data and resources).

³¹ *See* 91 Fed. Reg. 8738, 8379 (Feb. 24, 2026) (“NEPA further mandates that federal agencies ensure the professional and scientific integrity of environmental documents; use reliable data and resources when carrying out NEPA; and study, develop, and describe technically and economically feasible **alternatives.**”) (emphasis added).

³² The CRSP Upper Initial Units include Flaming Gorge, Blue Mesa (a component of the Aspinall Unit), and Navajo reservoirs. They are governed by Reclamation records of decision dated 2006, 2012, and 2006, respectively. *See* Draft EIS, Executive Summary, Sec. ES.2.3., at ES-17 at n.5.

³³ For example, the 1962 San Juan-Chama Authorization Act (Public Law 87-483) authorized Reclamation to construct and operate the San Juan-Chama Project as part of the CRSP Act. Section 16(a) of the 1962 Act makes clear that creation of the units and projects “shall in no way impair or diminish” the obligations of the “States of the upper division” to comply with Articles III C and D of the Compact.

releases of water from Lake Powell in the following listed order of priority: (1) releases to supply one-half the deficiency described in article III(c) of the Colorado River Compact, if any such deficiency exists and is chargeable to the States of the Upper Division . . . (2) releases to comply with article III(d) of the Colorado River Compact, less such quantities of water delivered into the Colorado River below Lee Ferry to the credit of the States of the Upper Division from other sources; and (3) **storage of water not required for the releases specified in clauses (1) and (2) of this subsection to the extent the Secretary . . . shall find this to be reasonably necessary to assure deliveries under clauses (1) and (2)** without impairment of annual consumptive uses in the upper basin pursuant to the Colorado River Compact: *Provided*, That water not so required to be stored shall be released from Lake Powell: (i) to the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact [except when] the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell ³⁴

Reclamation asserts that its alternatives analysis “shows the range of approaches to releases from CRSP Upper Initial Units to protect Glen Canyon Dam infrastructure, the maximum amount of conserved water that could be stored, assumptions about the amount of annual Upper Basin conservation, and rules for when Upper Basin conserved water would be converted to system water.”³⁵ Yet, Reclamation fails to describe how the release determinations required under Colorado River Basin Project Act § 602(a) will be factored into each alternative especially during low flow conditions.³⁶ Moreover, Reclamation’s discussion of the “activities above Lake Powell” is critical to benefit both Lake Powell and Lake Mead elevations, and meet water delivery obligations. Indeed, pursuant to CRBPA § 602(a), in 1970, Reclamation issued the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs to establish coordinated operations for reservoirs in the Upper and Lower basins, specifically when water releases from Lake Powell to Lake Mead should occur. In accordance with LROC, an “objective release” of 8.23 million acre-feet per year is targeted for downstream delivery. This issue is also relevant to Reclamation’s failure to address a reasonably foreseeable

³⁴ CRBPA § 602(a), 43 U.S.C. § 1552(a) (emphases added).

³⁵ Draft EIS, Executive Summary, Sec. ES.2.3., at ES-17.

³⁶ 43 U.S.C. § 1552(a); *see also* 69 Fed. Reg. 28945 (May 19, 2004) (adoption of an Interim 602(a) Storage Guideline for Management of the Colorado River).

Compact Call (discussed below) and obligations for the Upper Division to satisfy one-half of the water delivery to Mexico under the 1944 Treaty.

Furthermore, Section 14 of the 1956 Colorado River Storage Project Act ("CRSP Act") requires that:

In the operation and maintenance of all facilities, authorized by Federal law and under the jurisdiction and supervision of the Secretary of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin.³⁷

This section of the CRSP Act requires that Reclamation manage **both** CRSP Upper Initial Units and other participating projects in compliance with the Compact. There is not a single alternative where Reclamation mentions, much less modifies, the operations of the federal projects subject to the CRSP Act to comply with the Compact or Section 602, including the paramount obligation to release water from the Upper Basin to satisfy one-half of the obligation to Mexico. In short, Reclamation has clear federal authorities for release regimes from CRSP reservoirs, but has entirely ignored its statutory obligations, as none of the alternatives address issues such as the reasonable foreseeability of providing water from CRSP units to meet obligations to Mexico.

D. Reclamation Failed to Describe for Each Alternative How it Would Exercise its Existing Legal Authority and What Additional Authority it Would Need to Meet the Purpose and Need, and Comply with the Law of the River

Reclamation repeatedly excuses itself from conducting the required detailed analysis of alternatives, including *how* it would exercise its legal authority to operate the reservoirs and deliver water during low flow conditions. Reclamation claims that the full scope and limits of its legal authority are unclear or have not been "tested" in the courts:

- In the Chapter 2 Alternatives analysis introduction, Reclamation gives a blanket excuse for not offering *any* action alternative that fully complies with its obligations under the Law of the River. After first acknowledging that "[t]he Secretary has the vested authority and responsibility to operate the System through coordinated operations . . . pursuant to applicable federal law, the Decree, contractual obligations, and other elements of the Law of the River[, t]he **full extent of**

³⁷ 43 U.S.C. § 620.

Reclamation's operational authority has not been tested to date—either operationally or through legislative or judicial review.”³⁸ Nowhere does Reclamation describe the “extent” of its operational authority.

- Regarding the Basic Coordination Alternative, Reclamation admits that this alternative “may not provide adequate protection of critical infrastructure or the system and may be viable only in the short term given current reservoir conditions.”³⁹ To remedy this situation, in the event the Basic Coordination Alternative is selected, Reclamation plans to “identify the conditions under which further action would be required, including adjustment of operations and prompt action to seek **additional authorities**, if needed.”⁴⁰ Nowhere does Reclamation describe what “additional authorities” it would need to fully implement the Basic Coordination Alternative to satisfy its obligations under the Law of the River.
- The Enhanced Coordination Alternative applies a “pro rata Lower Basin shortage distribution to evaluate the potential impacts of distributing reductions among all mainstream lower Colorado River water users in Arizona, Nevada, and California” during low flow conditions with no similar reductions assigned to the Upper Basin States, explaining that “[a]**dditional agreements and other legal authorities would be needed** to implement any pro rata operations that are inconsistent with the Decree.”⁴¹ Nowhere does Reclamation describe what “additional agreements” or “other legal authorities” it would need to fully implement the Enhanced Coordination Alternative to satisfy its obligations under the Law of the River.
- Reclamation avoids setting out how it would maintain minimum releases of 8.23 maf from Lake Powell under the No Action Alternative (other than it would prioritize protection of Glen Canyon Dam due to infrastructure limitations) because the basin states “have **different legal positions** regarding how this LROC statement incorporates other Law of the River elements to determine annual releases.”⁴² Nowhere in the Draft EIS does Reclamation set forth how it interprets and would apply LROC during low flow conditions under the No Action Alternative.

³⁸ Draft EIS, Sec. 2.3, at 2-5 (emphasis added).

³⁹ *Id.*, Sec. 2.5, at 2-11.

⁴⁰ *Id.* at 2-11 to 2-12 (emphasis added).

⁴¹ *Id.*, Sec. 2.6, at 2-16 & n.18.

⁴² *Id.*, Secs. 2.4.2, 2.10, at 2-9, 2-23.

- Reclamation screened alternatives from detailed analysis, explaining that its analysis was “[i]nclusive of existing legal authorities and contractual obligations. This would not preclude the **reasonably foreseeable acquisition of certain new or modified legal authorities necessary to implement new interim guidelines**. However, **new legal authorities** that would result in impracticalities or are unlikely to be widely acceptable among stakeholders **are too speculative to include in this Draft EIS**.”⁴³ Ironically, even though they are “reasonably foreseeable,” nowhere in the Draft EIS does Reclamation describe or provide examples of necessary “new or modified legal authorities.” Nor does Reclamation discuss what efforts it has taken to evaluate the potential success of new or modified legal authorities.⁴⁴

Notwithstanding Reclamation’s repeated protests, Reclamation cannot hide behind regulatory or legal uncertainty to avoid advancing and fully analyzing a reasonable range of alternatives that meets the purpose and need of the proposed action *and* complies with the Law of the River.⁴⁵

First, by statute, NEPA requires that Reclamation comply with “**specific statutory obligations**” other than NEPA that require Reclamation to “to coordinate or **consult with** any other Federal or **State agency**,” which is precisely what the Compact and other requirements of the Law of the River impose on Reclamation as operator of the reservoirs.⁴⁶ Similarly, NEPA does not absolve Reclamation from, “to the **fullest extent possible**,” complying with the “policies, regulations, and public laws of the United States” which “shall be **interpreted** and administered” by Reclamation “in accordance with the policies set forth in [NEPA].”⁴⁷ Reclamation cannot satisfy these basic NEPA requirements without identifying and interpreting such laws and regulations. Indeed, DOI’s NEPA Implementing Procedures expressly direct that

⁴³ *Id.*, Sec. 2.9, at 2-35 to 2-36 & n.26.

⁴⁴ *Cf. Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 814 (9th Cir. 1999) (Forest Service failed to consider reasonable range of alternatives when it did not explore requesting an appropriation); *see also Simmons v. United States Army Corps of Eng'rs*, 120 F.3d 664, 669-70 (7th Cir. 1997) (Court found that Army Corps of Engineers failed to consider reasonable range of alternatives which may have included constructing two separate water projects. Without any discussion of why this potential alternative was omitted, the court could not determine the feasibility of the two-project approach).

⁴⁵ *Solar Energy Indus. Ass’n v. FERC*, 80 F.4th 956, 995 (9th Cir. 2023) (“[A]t least some degree of speculation is implicit in NEPA, agencies may not shirk their responsibilities under NEPA by labeling . . . discussion . . . as [a] crystal ball inquiry.”) (internal punctuation and citations omitted).

⁴⁶ *See* NEPA § 104, 42 U.S.C. § 4334 (emphasis added).

⁴⁷ *Id.* § 102, 42 U.S.C. § 4332 (emphasis added).

Reclamation “identify consultations, permits, or licenses necessary under other environmental laws” and explain “how the bureau has met or will meet any such requirements that apply to the proposed action.”⁴⁸

Second, NEPA is not a shell game in which stakeholders and the regulated community must guess at Reclamation’s intentions with respect to how it intends to comply with its many statutory and regulatory obligations under the Law of the River under each alternative. As explained in DOI’s NEPA Implementing Procedures, NEPA requires that the lead agency identify and carry forward “reasonable alternatives” that “are technically and economically feasible, **meet the purpose and need** for the proposed action, are **within the jurisdiction of the bureau**, and, where applicable, meet the goals of the applicant.”⁴⁹ If Reclamation believes it lacks “jurisdiction” or legal authority, it should clearly articulate what legal authority it believes it has to implement an alternative and what specific additional authority it believes it needs by statute or contractual (i.e., by agreement among the Basin States) to implement the alternative. But it cannot carry forward an alternative that does not meet the purpose and need or comply with applicable legal requirements.⁵⁰ In addition, DOI’s guidance indicates that Reclamation should explain why an alternative was “eliminated from detailed study” due to lack of jurisdiction or for another reason.⁵¹

⁴⁸ DOI NEPA Implementing Procedures § 3.8(c), at 20 (Feb. 23, 2026) (emphasis added). One key consultation requirement applicable to Colorado River operations and this NEPA analysis is found in the Supreme Court Decree in *Arizona v. California*, 547 U.S. 150, 155-56 (2006) (Sec. II(B)(3)) (“If insufficient mainstream water is available for release, as determined by the Secretary of the Interior, to satisfy annual consumptive use of 7,500,000 acre-feet in the aforesaid three States, then the Secretary of the Interior, after providing for satisfaction of present perfected rights in the order of their priority dates without regard to state lines and after consultation with the parties to major delivery contracts and such representatives as the respective States may designate, may apportion the amount remaining available for consumptive use in such manner as is consistent with the Boulder Canyon Project Act as interpreted by the opinion of this Court herein, and with other applicable federal statutes, but in no event shall more than 4,400,000 acre-feet be apportioned for use in California including all present perfected rights[.]”).

⁴⁹ *Id.* § 6.1, at 25 (emphasis added).

⁵⁰ *Citizens’ Comm. to Save Our Canyons v. U.S. Forest Serv.*, 297 F.3d 1012, 1031 (10th Cir. 2002) (“Alternatives that ‘do not accomplish the purpose of an action are not reasonable’ and need not be studied in detail by the agency.”); see *League of Wilderness Defs.-Blue Mts. Biodiversity Project v. U.S. Forest Serv.*, 689 F.3d 1060, 1064 (9th Cir. 2012).

⁵¹ DOI NEPA Implementing Procedures, Appx. 1, at 39.

Third, Reclamation offers contradictory statements regarding its jurisdiction. In some instances, it claims to lack authority without specifying why. In other instances, it claims to hold sufficient authority to act but will seek additional **unspecified** legal authority in the future to fully implement an alternative. For example, Reclamation states the following with respect to the Basic Coordination Alternative:

[T]he Secretary has the vested authority and responsibility to operate the System through coordinated operations, including the ability to respond to exigent and emergency conditions, pursuant to applicable federal law, the Decree, contractual obligations, and other elements of the Law of the River. The full extent of Reclamation's operational authority has not been tested to date—either operationally or through legislative or judicial review. Accordingly, Reclamation's description of how this alternative would be implemented relies on legal, operational, and engineering judgment regarding future operations under a broad range of hydrologic conditions **This alternative proposes that the Secretary may seek new authorities to implement additional measures to protect critically low elevations at Lake Mead including additional shortages to Lower Basin water users.**⁵²

The lack of case law or other directives delineating Reclamation's authority in no way reduces NEPA's requirement to adequately describe Reclamation's authority and jurisdiction to implement a reasonable range of alternatives. It may well be appropriate for Reclamation at a future date to request additional statutory or contractual authority to meet the project purpose and need in the long-term. But Reclamation cannot hide behind a "future" request for authority—NEPA requires Reclamation to identify with particularity the technical, economic, and legal constraints and assumptions underlying the alternatives analysis.⁵³

⁵² Draft EIS., Secs. 2.5, 2.5.1.1, at 2-11, 2-13 n.16 (emphasis added).

⁵³ See 42 U.S.C. § 4332(2)(D)-(F) (requiring scientific integrity, use of reliable data, and study and development of technically and economically feasible alternatives); see also Sec'y of the Interior Order No. 3441, Restoring Gold Standard Science (May 23, 2025) (emphasizing that "[s]cience should be open and accessible with all components of the research process shared comprehensively" and that for "complex scientific challenges" agencies should use "multi-disciplinary integration of expertise, methodologies, and perspectives"); see also *Muckleshoot Indian Tribe*, 177 F.3d at 814 (9th Cir. 1999) (holding that Forest Service failed to meet NEPA's requirements when it did not consider an alternative which required the Forest Service to make a request for appropriations).

Fourth, Reclamation fails to address what its default operations would be if it was unsuccessful in obtaining new, albeit unspecified, federal authorities or if water users failed to execute additional voluntary agreements. Nor does Reclamation describe the operational consequences and environmental effects from failing to obtain additional authorities. The failure to provide such analysis renders the Draft EIS incomplete and inadequate to inform decisionmakers and stakeholders.

Reclamation's approach fails to provide decisionmakers and stakeholders with the basic information to satisfy NEPA's twin aims to ensure that (1) federal agencies will "have available, and will carefully consider, detailed information concerning significant environmental effects" of each alternative, and (2) "**relevant information** will be made available" to the public and other government agencies.⁵⁴ As the Supreme Court has emphasized, "by focusing the agency's attention on the environmental consequences of a proposed [action], NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast."⁵⁵ NEPA's procedural and analytical requirements are designed to ensure that all "**relevant information** will be made available to the larger audience that may also play a role in both the decision making process and the implementation of that decision."⁵⁶

For the purposes of this NEPA process, the most "**relevant information**" includes how, under each alternative, Reclamation must apply the Law of the River in "accordance with" and subject to the "statutory jurisdiction, authority, or limitations," and "procedures" set forth in applicable laws governing Colorado River operations. Reclamation's "operational elements" common to each alternative admit that "reductions in water deliveries" and "criteria to trigger reductions" mandate full consideration of how the Law of the River factors into each alternative.⁵⁷ If Reclamation fails to explain its interpretation of the key elements of the Law of the River and how they apply to each alternative especially during low flow conditions, the EIS analysis will be incomplete, lack transparency, and fail to meet the "hard look" requirement.⁵⁸

An agency's actions, findings, and conclusions are unlawful if they are "arbitrary, capricious, an abuse of discretion, or otherwise not in **accordance with law**," "in excess of

⁵⁴ See *Robertson v. Methow Valley Citizen's Council*, 490 U.S. 332, 349-50 (1989).

⁵⁵ *Id.* at 349.

⁵⁶ *Id.* (emphasis added); see also *WildEarth Guardians v. Bureau of Land Mgmt.*, 870 F.3d 1222, 1237 (10th Cir. 2017) ("NEPA has two purposes: prevent uninformed agency decisions and provide adequate disclosure to allow public participation in those decisions.") (citing *Methow Valley*, 490 U.S. at 349).

⁵⁷ Draft EIS, Sec. 2.2.1, at 2-4.

⁵⁸ See *Friends of Animals*, 164 F.4th at 738.

statutory jurisdiction, authority, or limitations,” or “without observance of procedure required by law.”⁵⁹ Reclamation’s analysis will not pass judicial scrutiny if Reclamation fails to identify its “statutory jurisdiction” and explain how it will implement the proposed action “in accordance with law” and observing all “procedures required by law.”

Fifth, Reclamation admits that it is “**reasonably foreseeable**” that it will need to acquire “**certain new or modified legal authorities necessary to implement new interim guidelines.**”⁶⁰ Given Reclamation’s admission, NEPA makes it mandatory that such reasonably foreseeable legal authorities be disclosed in the Draft EIS.⁶¹ While some uncertainty may exist regarding the precise timing and content of needed additional legal authorities, NEPA requires Reclamation to “utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking” based on available information known at this time.⁶²

II. Reclamation’s Failure to Include a Reasonably Foreseeable “Compact Call” Violates NEPA and the Secretary’s Obligations Under the Law of the River

As mentioned above, a core NEPA requirement is that an EIS must evaluate any “**reasonably foreseeable**” effects of the proposed action, such as a Compact Call (also known as a “Compact Curtailment”).⁶³ The term “Compact Call” refers to a potential request to the Secretary of the Interior from the Lower Basin States to order Reclamation and the Upper Basin States to deliver Colorado River water pursuant to the terms of the Compact in the event of any accumulated deficit at Lee Ferry under Articles III(c) and III(d).⁶⁴ Reclamation acknowledges in the Draft EIS that even without new legal authority or agreements, Reclamation has the “responsibility to operate the System through coordinated operations, including the ability to respond to exigent and emergency conditions, pursuant to applicable federal law, the Decree, contractual obligations, and other elements of the Law of the River.”⁶⁵ Reclamation further

⁵⁹ Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A), (C), (D).

⁶⁰ Draft EIS, Sec. 2.9, at 2-35 to 2-36 & n.26.

⁶¹ *See id.*

⁶² *See* NEPA § 102(A), 42 U.S.C. § 4332(2)(A) (emphasis added).

⁶³ *See id.* § 102(2)(C)(i),(ii), 42 U.S.C. § 4332(2)(C)(i),(ii).

⁶⁴ Specifically, Compact Article III(d) imposes the following mandatory delivery obligation: “The States of the Upper Division will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75,000,000 acre-feet [75 maf] for any period of ten consecutive years reckoned in continuing progressive series beginning with the first day of October next succeeding the ratification of this compact.”

⁶⁵ Draft EIS, Sec. 2.5, at 2-11.

acknowledges that its decisions are governed by the legal requirements comprising the “Law of the River,” and that low flow conditions exacerbating compliance with Compact water delivery obligations appear all but certain.⁶⁶

As explained above, Reclamation’s unwillingness to disclose how it will apply the Law of the River to each alternative and modeled scenarios contradicts Reclamation’s own admission that Reclamation itself is legally obligated to apply the Law of the River to future Colorado River operations.⁶⁷ Reclamation “kicks the can down the road,” rather than doing the hard work needed to analyze and disclose planned operations to satisfy water delivery obligations after expiration of the current operational guidelines. NEPA forecloses such an approach.⁶⁸ This also puts the Lower Basin States in the difficult position of issuing a Compact Call in the near future, which is highly likely given the breakdown in negotiations between the Upper Basin and Lower Basin States.

One excuse that Reclamation implicitly provides for not directly addressing the risk of a Compact Call is that the Basin States “have **different legal positions** regarding” application of the Law of the River “to determine annual releases” during low flow conditions.⁶⁹ It is true that such disagreements between the Upper Basin and Lower Basin exist, but they do not excuse Reclamation from disclosing the effects of a reasonably foreseeable Compact Call.

The following provides one crucial example of differing interpretations of application of the Law of the River to long-term Colorado River management under low flow conditions. The LROC requires Reclamation to create annual plans of operation for the Colorado River Storage Project (“CRSP”) units and Lake Mead. Such plans must include a determination, consistent with Colorado River Basin Project Act § 602(a)(3), as to how much water is needed in storage to satisfy future delivery requirements to Mexico and the Lower Basin States under 602(a)(1) and (2).⁷⁰ Importantly, the Upper Basin States have asserted that Section 602(a) “allow[s] the

⁶⁶ *Id.*, Sec. 1.8.2.1, at 1-13 to 1-16; *supra* § I.A. at pp. 7-8.

⁶⁷ *Supra* discussion at § I.

⁶⁸ See *Methow Valley Citizens Council*, 490 U.S. at 349 (“NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.”).

⁶⁹ Draft EIS, Secs. 2.4.2, 2.10, at 2-9, 2-38.

⁷⁰ The relevant statutory language provides: “In order to comply with and carry out the provisions of the Colorado River Compact [of 1922], the Upper Colorado River Basin Compact, and the Mexican Water Treaty, the Secretary shall propose criteria for the coordinated long-range operation of [the CRSP reservoirs and Lake Mead] **The criteria shall make provision for the storage of water in [CRSP Reservoirs] and releases of water from Lake Powell in the following listed order of priority:** (1) releases to supply one-half the deficiency described in

Upper Division States to continue to meet their obligations under the [Compact] without impairing their ability to consumptively use the waters of the Colorado River System apportioned to them in perpetuity by the Compact” notwithstanding the annual releases prioritized in 602(a)(1)-(2).⁷¹ However, nothing in Section 602(a) or the LROC suggests the conditions under which less than 8.23 maf would be released each year for the Lower Basin and Mexico.⁷²

In the reasonably foreseeable event of ongoing low-flow conditions, which Reclamation itself assumes is the case,⁷³ it is certain that Reclamation will be required to render its own interpretation of the Colorado River Basin Project Act and other elements of the Law of the River. As such, not only must Reclamation analyze the same for each alternative analysis, Reclamation must analyze how it will respond to a reasonably foreseeable Compact Call given that the Basin States are unlikely to reach a consensus approach.⁷⁴ The Lower Basin States have

article III(c) of the Colorado River Compact, if any such deficiency exists and is chargeable to the States of the Upper Division . . . ; (2) releases to comply with article III(d) of the Colorado River Compact, less such quantities of water delivered into the Colorado River below Lee Ferry to the credit of the States of the Upper Division from other sources; and (3) **storage of water not required for the releases specified in clauses (1) and (2) of this subsection to the extent the Secretary . . . shall find this to be reasonably necessary to assure deliveries under clauses (1) and (2)** without impairment of annual consumptive uses in the upper basin pursuant to the Colorado River Compact: Provided, That water not so required to be stored shall be released from Lake Powell: (i) to the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact [except when] the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell” CRBPA § 602(a), 43 U.S.C. § 1552(a) (emphases added).

⁷¹ See Letter from Upper Basin States to Reclamation, regarding “Reclamation’s Consideration of 602(a) Storage in the No Action Alternative,” at 1 (June 11, 2024).

⁷² For more information regarding the disagreement between the Upper and Lower Basin States on this issue, see Lower Basin States’ Letter to Reclamation regarding “Upper Division States’ June 11, 2024 Letter Regarding 602(a) Storage Considerations in the No-Action Alternative” (June 25, 2024).

⁷³ *Supra* pp. 6-7 & § II.

⁷⁴ See *Save the Colorado v. U.S. Army Corps of Eng’rs*, No. 18-cv-03258, 2024 WL 4519201, at *14 n.24, 2024 U.S. Dist. LEXIS 189322 (D. Colo. Oct. 16, 2024) (In concluding that the agency violated NEPA for other reasons, the court stated that given the “last few decades of severe aridity . . . it is perplexing . . . that the Corps dismissed the possibility of a [1922 Colorado River] compact call in its analysis of a proposed water management project.”).

repeatedly submitted comments to Reclamation emphasizing the need to analyze the impacts of a Compact Call under each alternative and why a Compact Call is reasonably foreseeable.⁷⁵ To ensure a legally sufficient analysis of a reasonably foreseeable Compact Call, Nevada again requests that Reclamation include the following assumptions regarding a Compact Call in the analysis of each alternative other than the Lower Basin Alternative:

- **Required deliveries pursuant to Article III of the Compact:** The Compact requires the delivery of the following at Lee Ferry: 75 maf every 10 years, on a rolling basis, plus the Upper Basin States' share of the Mexico Treaty obligation.
- **Compact call by the Lower Division States:** As stated above, it is reasonably foreseeable that if deliveries at Lee Ferry fail to satisfy the Compact requirements, the Lower Basin States will make a Compact Call for delivery of the deficit.
- **Upper Basin curtailment or other reductions:** It is reasonably foreseeable that, in the event of a Compact Call, the Upper Basin States will take, or be compelled to take, the necessary steps to comply with the Compact requirements, whether through curtailment, demand management storage in Lake Powell, or voluntary conservation measures. If a particular alternative incorporates a demand management storage program in Lake Powell or other conservation measures, it would be appropriate to assume utilization of that program according to its terms. Otherwise, it should be assumed that the Upper Basin States will curtail users as necessary (i.e., implement reductions) to satisfy their obligation. The Lower Basin States would support modeling of curtailment consistent with the requirements of the 1948 Upper Colorado River Basin Compact and the 1922 Colorado River Compact.
- **Actions by the United States in management of federal reservoirs:** Congress directed Reclamation to operate all federal infrastructure, including federal reservoirs, consistently with the 1922 Colorado River Compact, and Section 602(a) of the Colorado River Basin Project Act directs the Secretary to manage Upper Basin federal reservoirs to prioritize releases for Compact compliance, second only to releases to satisfy the Treaty obligation to Mexico. The 1970 Long Range Operating Criteria provide for minimum annual releases of 8.23 maf to meet these priorities.

⁷⁵ See Letter from Lower Basin States to Doug Burgum, Secretary of the Interior, regarding "Perspectives from the Lower Basin States on the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead," Attachment 1, at 10-19 (Feb. 13, 2025); see also Letter from Lower Basin to Reclamation Commissioner regarding "Upper Division States' June 11, 2024 Letter Regarding 602(a) Storage Considerations in the No-Action Alternative" (June 25, 2024).

Given this, it is reasonably foreseeable the United States will need to comply with these and other related elements of the Law of the River in operating the reservoirs.

- **Actions needed in advance of a Compact Call:** In addition to releasing water from Upper Basin reservoirs in response to a Compact Call, we expect that the United States will take actions necessary to release water from those reservoirs in advance of a Compact Call. Recognizing that the existing environmental compliance, or even physical capacity, of the reservoirs may not permit single-year releases on the scale necessary to satisfy a Compact Call, the United States should prepare by moving water through the reservoirs in advance, to satisfy any potential, near-term Compact Call. These anticipatory measures will be particularly important considering the need to protect critical infrastructure.

Failing to address or include in its analysis the tools that Reclamation will use to meet Compact compliance, including managing releases from the upstream initial units and modeling Upper Basin reductions through curtailment—together with any meaningful look at the resulting Upper Basin social and environmental impacts—renders Reclamation's analysis unhelpful to stakeholders and in violation of NEPA and its obligations under the Law of the River.

III. Reclamation Has Proposed an Impermissibly Narrow Purpose and Need Statement

Every EIS must include “a statement of purpose and need.”⁷⁶ For agency proposed actions, Congress's goals, as expressed “in the agency's statutory authorization to act, as well as in other congressional directives” must guide the purpose and need.⁷⁷ “Alternatives that do not accomplish the purpose of an action are not reasonable and need not be studied in detail by the agency.”⁷⁸ For that reason, “an agency cannot define its objectives in unreasonably narrow terms” that would artificially constrain the consideration of alternatives.⁷⁹

Reclamation's purpose and need is impermissibly narrow. Rather than embrace the full scope of Reclamation's charge to manage the Colorado River for domestic, agricultural, and other uses, including the implicit purpose and need to protect human health and safety through Colorado River management, Reclamation focuses solely on the purpose to “update and

⁷⁶ NEPA § 107(d), 42 U.S.C. § 4336a(d).

⁷⁷ *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

⁷⁸ *Citizens' Comm. to Save our Canyons v. U.S. Forest Serv.*, 297 F.3d 1012, 1031 (10th Cir. 2002) (citation omitted); NEPA, § 102, 42 U.S.C. § 4332(2)(C)(iii).

⁷⁹ *Cachil Dehe Band of Wintun Indians v. Zinke*, 889 F.3d 584, 606 (2018) (citing *City of Carmel-by-the-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997)).

expand” the expiring 2007 Interim Guidelines to provide “greater predictability for water users,” “additional mechanisms” for water conservation, storage and delivery, enhance opportunities for Basin Tribes to benefit from their water rights, and accommodate future growth in the Basin.⁸⁰ Similarly, the need is limited to coordinating reservoir operations, replacing the expiring 2007 Interim Guidelines, and advancing more “robust” operational guidelines that meet stakeholder issues of concern, including those of the Basin Tribes.⁸¹

By limiting its view to only updating the 2007 Interim Guidelines with a more robust approach, Reclamation narrows the focus of alternatives, eliminating a number of “tools in the toolbox” for addressing drought conditions on the River, including the specific alternative proposed by the Lower Basin States in March 2024, and subsequently updated. Moreover, as discussed below, Reclamation should have included in the purpose and need (a) reparations of the Glen Canyon infrastructure limitations **and** (b) delivering the amounts required under the Article III(c) and (d) of the Compact to the Lower Basin of 8.23 maf of water per year and “not caus[ing] the flow of the river at the Lee Ferry Compact Point to be depleted below an aggregate of 75.0 maf for any period of ten consecutive years.”⁸²

At least two viable alternatives, i.e., an alternative to address the Glen Canyon Dam’s infrastructure limitations and the proposed Lower Basin Alternative, were impermissibly eliminated based on Reclamation’s artificially constrained purpose and need.

IV. Reclamation Failed to Consider a Long-Term Alternative to Address Glen Canyon Dam’s Infrastructure Limitations

A. Reclamation’s Failure to Address Glen Canyon Dam’s Infrastructure Limitation Violates NEPA

Reclamation identifies an operational constraint “common to all alternatives” which limits releases from Lake Powell at elevations below 3,490 feet: “Releases from Glen Canyon Dam may be unable to achieve the specified annual release volume when Lake Powell is below elevation 3,490 feet due to **infrastructure constraints**” and “**limitations**,” and the need to “**protect**” Glen Canyon Dam “**critical infrastructure**.”⁸³

⁸⁰ Draft EIS, Sec. 1.3, at 1-7.

⁸¹ *Id.* at 1-6.

⁸² *Id.* at 1-16 (citing Compact, Article III).

⁸³ *E.g.*, Draft EIS, Sec. 2.10, at 2-38 (emphasis added); Draft EIS, Appx. A, Sec. A.6.1, at A-14 to A-15 (“Assumptions Common to All Alternatives” include “Infrastructure Constraints at Low Elevations,” specifically “monthly releases can be constrained due to physical limitations at Glen Canyon Dam. Water can be released through the powerplant turbines until the pool

Elsewhere, Reclamation has explained the basis of the 3,490-elevation needed to address infrastructure limitations. Specifically, in April 2023, Reclamation conducted a “High Flow Experiment” (“HFE”) release to rebuild beaches and sandbars in the Colorado River. Thereafter, Reclamation discovered damage in the Glen Canyon Dam “river outlet works” (also known as “bypass tubes”).⁸⁴ The river outlet works consist of four steel pipes that move water from Lake Powell directly downstream into the Colorado River, bypassing the hydropower generating units. Reclamation explained that the river outlet works are the “only means for releasing water below elevation 3,490 ft” because “[w]ater cannot be released from the spillways below elevation 3,648 ft, nor through the penstocks below elevation 3,490 ft. Water can theoretically be released from the outlet works down to elevation **3,370 ft**, which is the intake invert and dead pool elevation.”⁸⁵

On March 26, 2024, Reclamation released a “Technical Decision Memorandum,” explaining that the April 2023 release and other HFE releases in 1996, 2004, 2008, 2012, 2013, 2014, 2016, 2018, and 2023 from the river outlet works, combined with flood control releases in 1984-1987 had over time damaged the original coal tar enamel lining as a result of “cavitation.”⁸⁶ Reclamation further explained in the Technical Decision Memorandum that it planned to replace the original coal tar enamel lining with a “solvent borne epoxy” at a cost of \$8.9 million from the Bipartisan Infrastructure Law.⁸⁷ Importantly, Reclamation explained that the removal and replacement of the lining of the river outlet works was a short-term fix, not a long-term solution for ensuring “continuous long-term operation” of Glen Canyon Dam:

[T]here is concern with using the outlet works to provide long-term releases, particularly at high flows In order to achieve a high level of confidence for continuous long-term operation of the

elevation drops below 3,490 feet. Once Lake Powell is below 3,490 feet, releases are made through four river outlet works. The capacity of the river outlet works varies with the elevation of Lake Powell; the higher the pool elevation, the higher the potential release through the river outlet works For modeling purposes, three out of four river outlet works are assumed to be available for use at any given time; this is because of the need for periodic inspections and any associated maintenance activities.”).

⁸⁴ Reclamation, Press Release, Glen Canyon Dam begins relining project as part of the President’s Investing in America agenda (Sep. 3, 2024), <https://www.usbr.gov/newsroom/news-release/4946>.

⁸⁵ Reclamation, *Technical Decision Memorandum: Establishment of Interim Operating Guidance for Glen Canyon Dam during Low Reservoir Levels at Lake Powell*, at 3-4 (Mar. 26, 2024) (emphasis added) (“Technical Decision Memorandum”).

⁸⁶ *Id.* at 6.

⁸⁷ *Id.* at 4; Reclamation Press Release, *supra* note 84.

outlet works, a **major overhaul or replacement of the hollow-jet valves should be considered** A value planning study is currently planned to inform whether to refurbish or replace the hollow-jet valve hydraulic operating system.⁸⁸

On September 3, 2024, Reclamation reiterated in a press release that the relining project will not address the risks to Glen Canyon Dam from cavitation: “While relining the outlets won't prevent the risk of additional cavitation when operating at low reservoir levels, Reclamation is working on reducing that risk through the recent development of interim operating guidance for the outlets and additional analyses.”⁸⁹

The Draft EIS elaborates on the Glen Canyon Dam infrastructure limitation as follows:

- Glen Canyon Dam was not envisioned to operate below minimum power pool (elevation 3,490 feet). Below this elevation, water cannot be released through the penstocks and must instead be released through the jet tubes at the end of the river outlet works. **Infrastructure concerns associated with extended operations through the river outlet works include damage to the outlet works pipes at low reservoir elevations**, erosion at the downstream base of the dam from outlet works operation, and the potential for additional unknown issues from operating the outlet works for extended periods. Any one of these factors could compromise the safety and stability of Glen Canyon Dam and **affect the ability to meet critical downstream water supply needs**.⁹⁰
- Should elevations drop below 3,490 feet, routine operations of Glen Canyon Dam would be discontinued, and hydropower can no longer be produced. Releases can still be made via the river outlet works down to elevation 3,370 feet (corresponding to dead pool), at which point water can no longer be delivered downstream. However, the outlet works

⁸⁸ *Id.* at 7 & n. 4 (emphasis added).

⁸⁹ Reclamation Press Release, *supra* note 84.

⁹⁰ Draft EIS, Sec. 1.8.4.1, at 1-22 (emphases added).

are **not designed nor intended for long-term use at low reservoir levels** (Reclamation 2024a).⁹¹

In addition, the Draft EIS Technical Appendix 15 states:

Four, 96-inch steel pipes comprise the river outlet works at a centerline elevation of 3,374 feet. The outlets have a maximum combined capacity of 15,000 cubic feet per second (cfs) at elevation 3,500 feet. Below 3,500 feet the capacity decreases. Below minimum power pool, the outlet works are the sole means of releasing water. An annual release of 8.23 maf equates to a continuous flow of up to 11,368 cfs. With all four outlets operational, this release can be maintained down to approximately elevation 3,440 feet, however, operations and maintenance constraints may limit these releases or the elevation. Since the construction of Glen Canyon Dam, the river outlet works are typically reserved for flood control, HFEs, augmenting powerplant and spillway discharges, or for periods when the powerplant is not operating.⁹²

Draft EIS Technical Appendix 15 further states:

Maintenance tasks for the river outlet works include lining repairs and hollow-jet valve maintenance. The interior of the river outlet works was originally lined with coal tar enamel. Relining of the river outlet works with solvent borne epoxy began in the fall of 2024. The fabrication of the river outlet works hollow-jet valves dates back to the original construction of the dam, with no rehabilitation since that time. In 2023, an inspection of the outlet works found that to continue long-term operation of the outlet works, **major repairs or replacement of the hollow-jet valves should be considered**, as well as increasing the frequency of regular operation and maintenance tasks. River outlet works conduits were relined between 2024 and 2025. **Refurbishment or replacement of the hollow jet valves is in the planning stages.**⁹³

⁹¹ *Id.*, Sec. 3.3.1, at 3-25 (emphases added).

⁹² Draft EIS, Tech. Appx. 15, at 15-5 (emphases added).

⁹³ *Id.* at 15-5 to 15-6 (emphases added).

Notwithstanding the above, Reclamation provides no quantification of sustainable outlet capacity as Lake Powell drops, no wear/failure risk analysis for frequent use, no contingency if some aspect of the dam must be taken out of service, and no discussion or acknowledgement of Reclamation obligations to make necessary repairs and modifications. Reclamation's approach to addressing the Glen Canyon Dam infrastructure limitations caused by damage to the river outlet works violates NEPA for the following reasons.

First, Reclamation does not include remedying the Glen Canyon Dam infrastructure limitations in the statement of "Purpose and Need" contained in the October 2023 Scoping Report, January 2025 Alternatives Report, or in the Draft EIS.⁹⁴ **However, Reclamation elevates maintaining the Lake Powell elevation above 3,490 feet to protect "Glen Canyon Dam infrastructure" to the highest de facto purpose of the proposed action.** Reclamation imposes this constraint on all the action alternatives and the no action alternative without including any alternative which provides a long-term design, reparation, or other solution to allow long-term use of the river outlet works at below the 3,490 ft elevation to deliver water to the Lower Basin at low flow conditions. By not including an action alternative that resolves Glen Canyon infrastructure limitations, Reclamation impermissibly limits the range of reasonable alternatives.⁹⁵

Second, as indicated above, Reclamation acknowledges that it is currently considering alternatives to eliminate the infrastructure limitation in a "value planning study" outside the NEPA process to ensure a "high level of confidence for continuous long-term operation of the outlet works" by overhauling or replacing the hollow-jet valves and other possible solutions (which may also include reengineering the dam or routing water through bypass tunnels).⁹⁶ A central purpose of the Draft EIS is to evaluate "additional mechanisms for the conservation, storage, and delivery of water supplies in Colorado River reservoirs," including "a range of operational alternatives for post-2026 reservoir management."⁹⁷ Reclamation further purports to evaluate "additional measures to protect critical infrastructure at Glen Canyon Dam including

⁹⁴ See *Scoping Report for the Post-2026 Colorado River Reservoir Operations* § 5.2, at 60-61 (Oct. 2023) available at https://www.usbr.gov/ColoradoRiverBasin/documents/post2026/scoping/Post2026Operations_ScopingReport_October2023_508.pdf; see also Alternatives Report § 5, at 6-7; Draft EIS, Sec. 1.3, at 1-6 to 1-7.

⁹⁵ See, e.g., *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 877 (9th Cir. 2022) (agencies fail to meet their NEPA obligations when they do not "give full and meaningful consideration to all reasonable alternatives," including the reasonable alternatives presented by stakeholders).

⁹⁶ See Reclamation, Technical Decision Memorandum, *supra* note 85.

⁹⁷ Draft EIS, Secs. 1.1, 1.3, at 1-2, 1-6 to 1-7.

further reductions to releases from Lake Powell and additional use of the CRSP Upper Initial Units.”⁹⁸ Yet, Reclamation inexplicably fails to address the most obvious “measure” as part of the NEPA analysis, i.e., to repair the infrastructure limitations caused by river outlet works damage. Addressing the infrastructure limitations may be the one long-term measure that would best achieve operation and management improvements to the Glen Canyon Dam. Accordingly, Reclamation in this NEPA process must evaluate the impacts of infrastructure repairs, and modifications and enhancements at Glen Canyon Dam, including overhauling or replacing the hollow-jet valves and other possible solutions, which Reclamation acknowledges are feasible.⁹⁹

Third, it is unclear whether Reclamation is relying on a NEPA categorical exclusion to separately evaluate long-term repairs, modifications, and enhancements to the Glen Canyon Dam. Reclamation has a legal obligation to maintain federal water delivery infrastructure in good repair and operation, and no categorical exclusion permits Reclamation to ignore NEPA compliance with respect to the evaluation and implementation of major reparations of federal infrastructure that have significant consequences to downstream users.¹⁰⁰ Moreover, separately evaluating infrastructure repairs, modifications and enhancements in a separate planning process to the Glen Canyon Dam (i.e., the “value planning study”) contravenes the NEPA requirement that “[t]o the fullest extent possible, bureaus will prepare environmental documents or other NEPA compliance documents concurrently with and integrated with analyses and related surveys and studies required by other Federal statutes and regulations.”¹⁰¹ Moreover, repairing the Glen Canyon Dam infrastructure to better operate the reservoir and deliver water consistent with the Law of the River constitutes a “connected action” that must be addressed in the instant NEPA process.¹⁰²

⁹⁸ *Id.*, Sec. 2.5.2.1, at 2-15 & n. 17.

⁹⁹ NEPA’s 2023 Amendments direct agencies to discuss in an EIS “a reasonable range of alternatives to the proposed action . . . that are technically and economically feasible, and meet the purpose and need of the proposal.” NEPA § 102(2)(C)(iii), 42 U.S.C. § 4332(2)(C)(iii).

¹⁰⁰ No existing categorical exclusion would cover major repairs to Glen Canyon Dam. *See* 43 C.F.R. § 46.210 (2026) (list of DOI Categorical Exclusions); DOI NEPA Implementing Procedures, Appx. 2, § 14.5, at 92-95 (list of Reclamation Categorical Exclusions).

¹⁰¹ DOI NEPA Implementing Procedures, § 3.8(a), at 20.

¹⁰² *Id.* § 1.2(b)(1), at 4 (“In considering the potentially affected environment, the Responsible Official should consider, as appropriate to the proposed action, any connected actions, the scope of the affected area (national, regional, or local), reasonably foreseeable trends and planned actions within that area, and the affected area’s natural and cultural resources.”); *id.*, § 6.1(g), at 23-24 (“*Connected action* means a separate Federal action within the authority of a Federal agency that is closely related to the proposed action and should be addressed in a

Addressing the Glen Canyon Dam infrastructure repair needed to allow water deliveries to the Lower Basin States during low Lake Powell elevations cannot be teased out of the “course of action” establishing rules for coordinated operation of Lakes Powell and Mead. Moreover, it is difficult to envision how significant repairs to Glen Canyon Dam to address uncorrected infrastructure limitations that directly impact how much water is released to the Lower Basin States during low-flow conditions do not constitute a “major federal action” subject to preparation of an EIS.¹⁰³

Fourth, the reasonable range of alternatives requirement¹⁰⁴ requires that Reclamation evaluate alternative methods to protect the infrastructure at Glen Canyon Dam other than relying solely on reducing releases to the Lower Basin to maintain a hard elevation floor.¹⁰⁵ Such alternatives could include, for instance, short-term or long-

single environmental document because the proposed agency action: (1) Automatically triggers the separate Federal action, which independently would require the preparation of additional environmental documents; (2) Cannot proceed unless the separate Federal action is taken previously or simultaneously; or (3) Is an interdependent part of a larger Federal action that includes a separate Federal action, which mutually depend on the larger Federal action for their justification.”).

¹⁰³ NEPA § 102(2)(C)(A), 42 U.S.C. § 4332(2)(C)(iii); *see also San Luis & Delta-Mendota Water Auth. v. Jewell*, 747 F.3d 581, 646, 695 (9th Cir. 2014) (“[M]ajor federal actions significantly affecting the quality of the human environment” require an EIS, 42 U.S.C. § 4332(2)(C). Under applicable case law, when faced with operational or structural changes which “change the status quo” operation of an existing dam to reduce flows to downstream users “where there are substantial questions about whether [the changes] . . . may cause significant degradation of the human environment,” NEPA requires that Reclamation consider such changes in an EIS) (remanding to Reclamation to prepare an EIS to evaluate changes in a dam’s operation that “reduce the flow rate . . . in times of less precipitation”), *aff’g Delta Smelt Consol. Cases v. Salazar*, 686 F. Supp. 2d 1026, 1030, (E.D. Cal. 2009) (holding that “impact of coordinated operations of the Central Valley Project” in a manner that changed the “water delivery operations . . . to restrict project water flows . . . substantially alters the status quo in the Projects’ operations” requiring Reclamation to consider such changes).

¹⁰⁴ *See Supra* discussion at § III.

¹⁰⁵ *See 'Ilio'ulaokalani Coalition v. Rumsfeld*, 464 F.3d 1083, 1098 (9th Cir. 2006) (“When the proposed action is an integral part of a coordinated plan to deal with a broad problem, the range of alternatives that must be evaluated is broadened.”) (cleaned up); *Friends of Yosemite v. Kempthorne*, 520 F.3d 1024, 1039 (9th Cir. 2007) (agency violated NEPA because the “the action alternatives were not varied enough to allow for a real, informed choice”); *Alaska Wilderness Recreation & Tourism Ass'n v. Morrison*, 67 F.3d 723, 729 (9th Cir. 1995) (“An agency

term repairs or modification of the infrastructure at Glen Canyon Dam, conservation or curtailment in the Upper Basin, revised operation of federal infrastructure upstream of Lake Powell, or operational regimes such as proposed in the Lower Basin Alternative—that, assuming Reclamation adheres to the Law of the River, would both protect the infrastructure at Lake Powell and provide legally sufficient deliveries to the Lower Basin.¹⁰⁶ Proceeding on the basis of a mistaken or invalid assumption—namely that Reclamation can maintain Lake Powell above elevation 3,490 feet solely by reducing releases from Glen Canyon Dam—would invalidate Reclamation's alternatives analysis in the EIS.

Fifth, as explained below, Reclamation's apparent top priority of maintaining Lake Powell's elevation above 3,490 feet at the sole expense of the Lower Basin directly contravenes numerous foundational elements of the Law of the River including the Compact, the 1944 Treaty with Mexico, LROC, and the Colorado River Basin Project Act Section 602.¹⁰⁷

Accordingly, for the reasons stated above, Reclamation's failure to consider the Glen Canyon Dam infrastructure limitations and potential reparations of the same as part of the alternatives analysis violates NEPA and the Law of the River.

B. Reclamation Must Pursue An Engineering Solution Without Burdening Lower Basin Water Users

As indicated above, Reclamation repeatedly acknowledges that during low flow conditions, releases from Glen Canyon Dam may not satisfy water delivery requirements in order to protect Glen Canyon's damaged and impaired river outlet works. For example, Reclamation explains that the Enhanced Coordination Alternative:

seeks to protect critical infrastructure while benefitting key resources (such as environmental, hydropower, and recreation) through an approach to distributing storage between Lake Powell and Lake Mead that enhances the reservoirs' abilities to support the Basin. It applies a pro rata Lower Basin shortage distribution to evaluate the potential impacts of distributing reductions

must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action, and sufficient to permit a reasoned choice.”) (cleaned up).

¹⁰⁶ See *infra* p. 36.

¹⁰⁷ See *infra* § II, VI and accompanying text.

among all mainstream lower Colorado River water users in Arizona, Nevada, and California.¹⁰⁸

While that alternative encourages use of conservation pools in both reservoirs— “[w]ater conserved by Upper Basin users would be stored in a pool in Lake Powell that can reach a maximum volume of 2.0 maf” and “[w]ater held in the Lake Powell conservation pool would be converted to system water and combined with Lower Basin shortages to provide system benefits based on the shortage curve”—Reclamation makes clear that “the Lower Basin would take the balance of shortages” presumably on a “pro rata Lower Basin shortage distribution” basis.¹⁰⁹

Nothing in this alternative or other alternatives includes mechanisms in which the Lower Basin States and Upper Basin states both bear the burden of reduced deliveries and consumptive uses. Such an approach is not only grossly inequitable but violates the Compact for the reasons stated above. Nor does Reclamation provide any analysis of low flow operational outcomes utilizing a repaired river outlet works to ensure required deliveries to the Lower Basin States during low flow conditions after exhausting other “proactive conservation and water user flexibility” storage and non-system mechanisms.¹¹⁰ Rather, Reclamation assumes as a given that the Lower Basin States alone must suffer delivery shortages.

In summary, Reclamation asserts that the river outlet works cannot be used for “extended periods,” but never analyzes the impacts nor alternatives to the infrastructure limitation, other than to say it is studying the issue. Reclamation fails to consider utilizing the bypass tubes for short periods during low flow conditions to meet the delivery requirements to the Lower Basin States. Reclamation further ignores that the Compact expressly makes hydro pool levels subservient to domestic and agricultural uses.

V. Reclamation Violated NEPA By Failing to Consider and Carry Forward the Lower Basin States Alternative

NEPA requires that an agency include in its environmental analysis “a reasonable range of alternatives to the proposed agency action . . . that are technically and economically feasible, and meet the purpose and need of the proposal.”¹¹¹ DOI’s Handbook of NEPA Implementing Procedures clarifies that Reclamation must include both an analysis of adverse environmental effects as well as “any positive or beneficial environmental impacts of implementing the

¹⁰⁸ Draft EIS, Secs. 2.5.4.2, 2.6, at 2-16 (emphasis added).

¹⁰⁹ *Id.*, Sec. 2.6, at 2-16 to 2-21.

¹¹⁰ *Id.*, Sec. 2.6.3, at 2-21.

¹¹¹ NEPA § 102(2)(C)(iii), 42 U.S.C. § 4332(2)(C)(iii).

proposed action or any reasonable alternatives.”¹¹² Moreover, Reclamation must consider an alternative that stakeholders show to be reasonable and distinguishable from other alternatives considered. Indeed, “[t]he existence of a **viable but unexamined alternative** renders the environmental review conducted under NEPA inadequate,” especially when the alternative is proposed by stakeholders to be impacted by the proposed action.¹¹³

A. The Lower Basin States Submitted a Detailed, Viable Alternative that Reclamation Ignored

The Lower Basin Alternative takes a science-based approach to Colorado River management, as explained in the Lower Basin States’ letter to Reclamation dated March 6, 2024:

The Lower Basin Alternative shifts away from the reliance in the 2007 Interim Guidelines on the 24-Month Study forecasts and elevations in Lake Powell and Lake Mead to determine reservoir releases and Lower Basin shortages. This [Lower Basin] Alternative instead primarily uses actual hydrology and total system contents—a recognition that, whatever the elevation of a particular reservoir in the system may be, sustainable management must be focused on contents that are actually available in the system as a whole. “Total system contents” includes the contents of Flaming Gorge, Blue Mesa, Navajo, Powell, Mead, Mohave, and Havasu. In addition to more holistically managing the system, moving away from forecasts and reservoir elevations and instead relying on actual hydrology and system contents should reduce disagreements among and between the Basins that have resulted from reliance on Lake

¹¹² DOI NEPA Implementing Procedures, § 2.3(a)(2)-(3), at 13.

¹¹³ *Env’t Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 877 (9th Cir. 2022) (emphasis added; cleaned up) (invalidating an environmental assessment for failing to consider stakeholder-proposed alternatives); *see also High Country Conservation Advocates v. U.S. Forest Serv.*, 951 F.3d 1217, 1224-27 (10th Cir. 2020) (invalidating an environmental impact statement for failing to consider a stakeholder-proposed alternative that met the Forest Service’s statutory mandate, its objectives for the project, and was significantly distinguishable from the alternatives considered); *Morongo Band of Mission Indians v. FAA*, 161 F.3d 569, 576 (9th Cir. 1998) (A “specific, detailed counterproposal that ha[s] a chance of success” must be considered by agency); *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 711 (10th Cir. 2009) (an agency must evaluate a commenter-proposed alternative that “falls within the agency’s statutory mandate” and meets “the agency’s objectives for a particular project.”).

Powell and Lake Mead elevations and 24-Month Study forecasts in the past.¹¹⁴

Furthermore, the Lower Basin Alternative addresses “the impacts of drought and climate change through a holistic and sustainable approach to the coordinated operations of Lake Powell and Lake Mead that improves predictability for water users” by:¹¹⁵

- **Addressing the structural deficit in the Lower Basin.** It includes reductions from Lower Basin state apportionments and deliveries to Mexico by 1.5 maf (static reduction) under most system conditions. The static reduction is larger than the structural deficit in the Lower Basin regardless of the various ways that the structural deficit may be calculated.¹¹⁶
- **Operating the reservoirs based on system contents rather than elevations at Lake Powell and Lake Mead.** It shifts to a more holistic, systemwide approach in which operations are dictated by overall system conditions instead of forecasts and elevations in the two main reservoirs.
- **Sharing water use reductions broadly.** It recognizes the need to make water use reductions from state apportionments under most system conditions and shares those reductions predictably among the Lower Basin water users and Mexico. Under the most critical system conditions, the Lower Basin Alternative shares water use reductions between the Upper Basin and Lower Basin including Mexico.
- **Including provisions for storage and delivery of stored water.** It includes opportunities for storage and augmentation that will encourage innovation and investment.¹¹⁷

¹¹⁴ Lower Basin States Alternatives Letter to Reclamation, at 3-4 (Mar. 6, 2024).

¹¹⁵ *Id.* at 2.

¹¹⁶ See generally Reclamation, Lower Colorado River Mainstream Evaporation and Riparian Evapotranspiration Losses Report (Dec. 2023), available at <https://www.usbr.gov/lc/region/g4000/4200Rpts/LCRBEvapReport/LCRBEvapReport.pdf>.

¹¹⁷ See *id.* at 2-3. Originally, the Lower Basin Alternative included a Powell to Mead release regime designed to reflect Upper Basin “hydrologic shortage” by varying the release in part based upon use volumes in the Upper Basin. As discussed *infra*, the Lower Basin altered the approach to ensure that Lake Powell operates above critical elevations in a broader range of hydrologies.

B. Reclamation's Stated Reasons for Not Considering and Carrying Forward the Lower Basin Alternative Lack Merit

As explained above, despite the Lower Basin States' repeated efforts to help Reclamation understand the environmental and long-term operational benefits and advantages of the Lower Basin Alternative, Reclamation has steadfastly failed to consider and include the Lower Basin Alternative in its alternatives analysis. More recently, Reclamation includes the following explanation regarding its omission of any serious consideration of the Lower Basin Alternative:

Upon receiving the revised Upper Division and Lower Division States proposals, Reclamation performed preliminary modeling and concluded that the revisions did not sufficiently address the lack of an appropriate basis for the comprehensive and coordinated operations of Lake Powell and Lake Mead that, based on preliminary modeling results, was found lacking in the original proposals.¹¹⁸

The above explanation fails to provide a sufficient and documented basis for not including detailed analysis of the entire Lower Basin Alternative in the Draft EIS.

First, Reclamation provides no evidence or discussion in either the text of the Draft EIS or in the attached technical reports of "preliminary modeling" indicating that the Lower Basin Alternative failed to meet the purpose and need of the proposed action. This is particularly troubling given the degree to which Reclamation relies on modeling to support its alternatives analysis and provides the public with web-based modeling tools to better understand the various options.¹¹⁹ Yet, when repeatedly asked to conduct modeling and analysis of the Lower Basin Alternative, Reclamation failed to do so in a transparent fashion.

Second, had Reclamation actually applied its models to the Lower Basin Alternative, Reclamation would have concluded, as Nevada did, that the Lower Basin Alternative was viable and arguably satisfied the purpose and need in a more sustainable and scientifically-based approach that solves many of the deficiencies of the

¹¹⁸ Draft EIS, Sec. 2.1, at 2-2.

¹¹⁹ *See id.*, Sec. 2.1, at 2-1 ("To facilitate public understanding and input on the alternatives, since December 2023, Reclamation has developed and hosted the Post-2026 Operations Exploration Web Tool, an online platform that allows stakeholders, interested parties and the public to independently or collaboratively design, model and explore a wide range of creative operational strategies. Use of the platform is not considered formal input to the Post-2026 Process, but insights from the 500-plus operational strategies entered into the platform were used to inform alternatives.").

alternatives Reclamation carried forward in the Draft EIS. Specifically, attached hereto is a "Technical Memorandum – Lower Basin Alternative," prepared by SNWA hydrological modeling experts which set forth the following findings:

- "The Lower Basin Alternative performs as well as, and in some cases better than, the [Draft EIS] alternatives in meeting the stated purpose and need and should have been explicitly represented as a [Draft] EIS alternative."
- "The simulated near-term system conditions are highly sensitive to the forecast used to set the starting modeling conditions. What is considered favorable or less favorable operating conditions for Lake Powell and Lake Mead are largely shaped by the initial reservoir conditions used in the analysis, and relying on an outdated forecast to initialize the model does not accurately reflect reasonably foreseeable system conditions and understates the near-term resource risks associated with reservoir elevations."¹²⁰

Third, in each alternative carried forward in the Draft EIS, Reclamation assumes the need to indefinitely (or at least for the foreseeable future) maintain the power pool elevation of 3,490 feet in Lake Powell to protect Glen Canyon Dam infrastructure. But that assumption is mistaken. The Lower Basin Alternative, particularly as amended, provides adequate protection of Lake Powell elevations.¹²¹ Moreover, as explained, Reclamation must evaluate alternative methods to protect the infrastructure at Glen Canyon Dam other than relying solely on reducing releases to the Lower Basin to maintain a hard elevation floor.¹²²

¹²⁰ SNWA, "Technical Memorandum – Lower Basin Alternative," at 1 (Feb. 26, 2026).

¹²¹ See, e.g., Lower Basin States Alternatives Letter (Mar. 6, 2024), at 3 ("storage [opportunities provided by the alternative] will help to protect infrastructure and habitat and provide predictability for water users"); 6-7 ("[B]ased on our preliminary reviews, the Lower Basin Alternative is highly effective at keeping Lake Powell above critical elevations. Even during drier hydrologies, when Lake Powell's elevation may temporarily fall below 3500 feet, the use of total system contents . . . improves flexibility to protect critical infrastructure by enabling the movement of water through the system as necessary for infrastructure protection and environmental flows while satisfying water delivery requirements and Compact obligations."); email correspondence from Tom Buschatzke, *supra* n.13 (providing modification to Lower Basin Alternative to provide "refinements to the releases from Lake Powell" for "Lake Powell release[s] to avoid critical elevations").

¹²² *Supra* discussion at § IV.

Fourth, notwithstanding the deficiencies in the alternatives contained in the Draft EIS and the fact that Reclamation declined to consider and carry forward the Lower Basin Alternative, we believe that between now and issuance of the Final EIS, Reclamation could adopt the attached “Nevada Proposed Approach to Short and Long-Term Operations,” which (like the Lower Basin Alternative) better meets the stated purpose and need of the proposed action than the alternatives advanced by Reclamation in the Draft EIS.¹²³

VI. The Draft EIS Alternatives Analysis Includes Other Legal Deficiencies in Violation of NEPA Which are Particularly Detrimental Nevada’s Interests

A. Reclamation Failed to Include a Legally Sufficient No-Action Alternative

The no-action alternative “sets useful reference against which the effects of the proposed action (and any action alternatives) would be measured” and “the reasonably foreseeable environmental trends and planned actions as they would occur should the bureau not implement the proposed action or any action alternatives.”¹²⁴ The no action alternative must provide “a focused scientific and analytic comparison of the proposed action and alternatives.”¹²⁵ It also “represents a continuation of the affected environment absent the Federal action under consideration.”¹²⁶ The Draft EIS’s no-action alternative fails to achieve these objectives.

The Draft EIS explains the following regarding the no-action alternative:

- “Reclamation based the No Action Alternative in this Draft EIS on the operating guidance that was in place before the adoption of the 2007 Interim Guidelines ROD (2007 ROD) to provide a reasonable representation of how the system would continue to operate if no additional operating guidelines were adopted.”¹²⁷
- “Before the 2007 Interim Guidelines were in place, the basis for operations was the LROC, under which the Secretary made a number of determinations at the beginning of each operating year through the development and execution of the AOP, including the water supply available to users in the Lower Basin and the annual release from Lake Powell. The LROC does not include specific guidelines

¹²³ SNWA, “Nevada Proposed Approach to Short and Long-Term Operations” (Feb. 26, 2026).

¹²⁴ DOI NEPA Implementing Procedures, Appx. 1, at 39.

¹²⁵ *Id.* at 40.

¹²⁶ *Id.* at 41.

¹²⁷ Draft EIS, Sec. 2.4, at 2-6.

for such determinations, so the outcome of the annual determination in any particular year in the future could not be precisely known.”¹²⁸

- “[T]he Secretary makes a determination each year as to whether the consumptive use requirements of mainstream users in the Lower Division states will be met under a Normal, Surplus, or Shortage Condition. The LROC specify that the Secretary will consider all relevant factors in making a shortage determination and list some of the factors to be considered. However, there is no specific guidance as to exactly when, how, or to whom reductions in deliveries would be made. Therefore, **it is impossible to know exactly how the Secretary might make a shortage determination from year to year in the future.**”¹²⁹
- “The distribution of the shortages, summarized in Table 2-1, would be based on the interpretation of priority from the Consolidated Decree and CRBPA; not the distribution adopted in expiring guidelines . . . **Certain Lower Basin Colorado River water rights are “present perfected rights” or “PPRs,” which the Consolidated Decree quantified and defined as existing on June 25, 1929 (the effective date of the BCPA). PPRs are the highest priority Colorado River water rights.**”¹³⁰

Even if we were to concur with Reclamation’s decision to base the no-action alternative on the pre-2007 regulatory regime (i.e., application of the LROC and “present perfected rights”), we disagree that, for purposes of establishing a baseline, Reclamation can forego any disclosure of how the Secretary might make “shortage determinations.” Lead agencies frequently must establish “snapshot in time” baseline conditions using rolling averages, bounded (upper and lower) limits, modeling, and other recognized approaches provided the technical assumptions are fully disclosed. But such assumptions must be consistent with an agency’s transparent interpretations of its legal authority and applicable regulatory requirements.¹³¹ Here, Reclamation has provided no transparency with respect to how

¹²⁸ *Id.*

¹²⁹ *Id.*, Sec. 2.4.1.1, at 2-6 to 2-7 (emphasis added).

¹³⁰ *Id.* at 2-7 & n.8 (emphasis added).

¹³¹ *See Great Basin Res. Watch v. BLM*, 844 F.3d 1095, 1101 (9th Cir. 2016) (An agency “may estimate baseline conditions using data from a similar area, computer modeling, or some other reasonable method” but “whatever method the agency uses, its assessment of baseline conditions must be based on accurate information and defensible reasoning.”) (cleaned up).

Reclamation plans to apply the present perfected rights, which Reclamation concedes “are the highest priority Colorado River water rights.”¹³²

Reclamation introduces additional uncertainty regarding the no-action alternative: “While assumptions for adjustments to Lake Powell releases to forestall reaching physical elevation 3,490 feet have not been developed for this alternative, Reclamation maintains the **authority to modify operations to protect Glen Canyon Dam infrastructure.**”¹³³ While Reclamation claims such authority, it asserts that it has not developed the “assumptions” needed for adjustments to Lake Powell releases to protect the Glen Canyon dam and forestall infrastructure damage.¹³⁴ Without setting forth the “assumptions” supporting the “adjustments” needed to protect the Glen Canyon Dam, and the nature and extent of its authority, the no-action alternative lacks the clarity and specificity needed to establish baseline operations during low flow conditions. Courts have invalidated no-action alternatives that failed to provide sufficient details, clarity, and transparency to establish a baseline from which to compare reasonable alternatives.¹³⁵

Similarly, Reclamation fails to explain how, when, and under what circumstances it would make “shortage determinations” under its LROC authority. Reclamation acknowledges that LROC Article II(2) requires it to “maintain a minimum release of water from Lake Powell of 8.23 [maf],” but that the Lower and Upper Basin states “have **different legal positions** regarding how this LROC statement incorporates other Law of the River elements to determine annual releases. Reclamation also recognizes that variation in releases of water above and below the minimum objective release of 8.23 maf can, in **appropriate circumstances**, be adopted.”¹³⁶ Yet, nowhere in its NEPA analysis does Reclamation explain what it believes are the “appropriate circumstances.” Moreover, the fact that the basin states have different legal positions is irrelevant to the need for Reclamation to disclose the agency’s own understanding

¹³² Draft EIS, Sec. 2.4.1.1, at 2-7 & n.8 (emphasis added).

¹³³ *Id.*, Sec. 2.4.2.3 at 2-10 (emphasis added).

¹³⁴ *Id.*

¹³⁵ *Friends of Yosemite Valley v. Scarlett*, 439 F. Supp. 2d 1074, 1105 (E.D. Cal. 2006) *aff’d*, *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1037-38 (9th Cir. 2008) (holding agency’s no-action alternative invalid because agency improperly defined the baseline); *N.C. Wildlife Fed’n v. N.C. DOT*, 677 F.3d 596, 604-05 (4th Cir. 2012); *see also Great Basin Res. Watch v. BLM*, 844 F.3d 1095, 1101-04 (9th Cir. 2016) (baseline condition discussion).

¹³⁶ *Id.*, Sec. 2.4.2, at 2-9.

of its legal obligations under the no action alternative in the event of low flow conditions. Rather, Reclamation claims that “it is impossible to know.”¹³⁷

DOI’s NEPA regulations require that the responsible bureau official ensure the “scientific integrity” of the NEPA analysis by “using reliable data and resources.”¹³⁸ The preamble to DOI’s NEPA regulations emphasizes the importance of doing so in connection with preparing the no action and other alternatives.¹³⁹ Courts have made clear that agencies cannot hide behind legal or scientific uncertainty, but must transparently disclose the technical and legal basis underlying the proposed action and the “no action” alternative.¹⁴⁰

B. Reclamation’s “Basic Coordination Alternative” Fails to Meet the Project’s Purpose and Need

The Draft EIS explains that the “Basic Coordination Alternative” is “designed to be implementable without agreements among Basin water users regarding distributions of lower Colorado River mainstream shortages, storage and delivery of conserved water from system reservoirs, or other voluntary agreements . . . **under an increasingly broad range of potential future hydrologic conditions would be more challenging than under historical operations** and would result in a number of highly undesirable consequences for many users.”¹⁴¹

We concur that given the decades-long megadrought trend, it is critical that Reclamation consider alternatives reflecting increasingly low flows. This reality is explicitly mentioned in the project purpose and need statement:

[The] [i]mbalance between water supply and demand will be exacerbated by increasingly likely low-runoff conditions: The Basin is experiencing increased aridity due to climate variability, and **long-term drought and low-runoff conditions are expected in the future**. These conditions will exacerbate the now widely recognized **imbalance between water supply and demand in the Basin**. Robust and flexible guidelines are needed to manage the Colorado River system

¹³⁷ *Id.*, Sec. 2.4.1.1, at 2-6 to 2-7.

¹³⁸ 46 C.F.R. § 46.105(c).

¹³⁹ See 91 Fed. Reg. 8738, 8738-39 (Feb. 24, 2026) (“NEPA further mandates that federal agencies ensure the professional and scientific integrity of environmental documents; use reliable data and resources when carrying out NEPA; and study, develop, and describe technically and economically feasible **alternatives**.”) (emphasis added).

¹⁴⁰ See *Lands Council v. U.S. Forest Serv.*, 395 F.3d 1019, 1032 (9th Cir. 2004) (NEPA requires up front disclosure of informational shortcomings).

¹⁴¹ Draft EIS, Sec. 2.5, at 2-11 (emphasis added).

and its resources under a broad range of potential future hydrologic conditions.¹⁴²

The project purpose and need also acknowledges, as it must, that the expiring 2007 Interim Guidelines “are not robust enough to manage the system in a way that is sufficiently protective of the resources dependent on the Colorado River More robust and adaptive guidelines are needed for the efficient and sustainable management of the major mainstream Colorado River reservoirs and system resources.”¹⁴³ Thus, much more must be done to manage the Colorado River system.

Notwithstanding the project purpose and need, and priority deliveries to the Lower Basin that Reclamation must honor, Reclamation admits that the Basic Coordination Alternative “may not provide adequate protection of critical infrastructure or the system and may be viable only in the short term given current reservoir conditions.”¹⁴⁴ To remedy this situation, in the event the Basic Coordination Alternative is selected, Reclamation plans to “identify the conditions under which further action would be required, including adjustment of operations and prompt action to seek **additional authorities**, if needed.”¹⁴⁵ Reclamation should have screened the Basic Coordination Alternative and explained why it was eliminated from detailed study given that Reclamation admits it is not likely to meet the project purpose and need.¹⁴⁶

Reclamation admits that it has significant operational authority although the precise scope and parameters of which may not be entirely clear or may be debatable:

[T]he Secretary has the vested authority and responsibility to operate the System through coordinated operations, including the ability to respond to exigent and emergency conditions, pursuant to applicable federal law, the Decree, contractual obligations, and other elements of the Law of the River. The full extent of Reclamation’s operational authority has not been tested to date—either operationally or through legislative or judicial review. Accordingly, Reclamation’s description of how this alternative would be implemented relies on legal, operational, and engineering judgment regarding future operations under a broad range of hydrologic conditions This alternative proposes that

¹⁴² *Id.*, Sec. 1.3, at 1-6.

¹⁴³ *Id.*

¹⁴⁴ *Id.*, Sec. 2.5, at 2-11.

¹⁴⁵ *Id.* at 2-11 to 2-12 (emphasis added).

¹⁴⁶ See DOI NEPA Implementing Procedures, § 2.3(a)(3), at 13.

the Secretary may seek new authorities to implement additional measures to protect critically low elevations at Lake Mead including additional shortages to Lower Basin water users.¹⁴⁷

However, the lack of case law delineating Reclamation's authority in no way reduces NEPA's requirement to adequately describe the authority and jurisdiction it does have to implement a reasonable range of alternatives. It may well be appropriate for Reclamation at a future date to request additional statutory or contractual authority to meet the project purpose and need in the long-term. But Reclamation cannot hide behind a "future" request for authority to fully comply with NEPA.¹⁴⁸

Furthermore, Reclamation emphasizes the importance of the Basin States developing a consensus-based approach.¹⁴⁹ We agree that ideally the Basin States could have (and should have) reached a consensus approach for implementing enhanced conservation and allocation reductions. The Basin States have failed to do so. As a result, Reclamation should have provided an alternative that included mandatory conservation measures and reductions in consumptive uses under its existing authority as part of the Basic Coordination Alternative in order to meet the project purpose and need.

The most Reclamation appears to disclose regarding operations under this alternative during low flow conditions is the following: "If on October 1 Lake Powell is projected to fall below 3,500 feet within the upcoming WY, Reclamation would consider **additional measures** as necessary to protect critically low elevations, consistent with the Law of the River."¹⁵⁰ These "additional measures" remain undisclosed; however, they do not include "upper basin

¹⁴⁷ DEIS, Sec. 2.5 at 2-11, 2-13 n.6.

¹⁴⁸ *Native Vill. of Point Hope v. Jewell*, 740 F.3d 489, 497-98 (9th Cir. 2014) ("NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment. Rather, it is designed to require such analysis as soon as it can reasonably be done.") (citation omitted); *Half Moon Bay Fishermans' Mktg. Asso. v. Carlucci*, 857 F.2d 505, 508 (9th Cir. 1988) (disclosing information after EIS defeats NEPA's goal of encouraging public participation during the decision-making process).

¹⁴⁹ See, e.g., Draft EIS, Sec. 2.2, at 2-3 ("Achieving a consensus-based approach to Basin reservoir operations has **proved critical to the long-term operating success of the Basin**. Given the importance of a consensus-based approach to operations in terms of the stability of the system, the Department will continue to pursue an agreement among various Basin entities.") (emphasis added).

¹⁵⁰ *Id.*, Sec. 2.5.2.1, at 2-15 (emphasis added).

conservation” purportedly because such measures “would require agreements outside of Reclamation’s control.”¹⁵¹

Furthermore, Reclamation explains that: “The maximum shortage volume is set at a level estimated by Reclamation to ensure that an assumed minimum flow is available for infrastructure protection and delivery for municipal use by [Central Arizona Project] users and other Fourth Priority mainstem entitlement holders in Arizona when mainstream shortage is distributed by priority.”¹⁵² Reclamation should be more specific as to the quantity of Arizona water reserved in their shortage calculation for the Basic Coordination Alternative.

C. Reclamation Failed to Include an Alternative Consisting of Voluntary and Mandatory Conservation Measures and Reductions

Reclamation explains that the proposed action is intended to promote water conservation:

- “Approaches that include opportunities for **conservation**, augmentation, demand management, or other water management strategies.”¹⁵³
- “**Expanded and innovative use of conservation** is needed: Recognizing the anticipated future low-runoff conditions in the Basin, the Department has also determined a need for guidelines that provide Colorado River water users, including Basin Tribes, expanded opportunities to conserve, store, and take subsequent delivery of water in and from Lake Mead and/or Lake Powell. The guidelines should also support and integrate future efficiency improvements and opportunities for augmentation.”¹⁵⁴
- “The purpose for the proposed federal action is to . . . provide additional mechanisms for the conservation, storage, and delivery of water supplies.”¹⁵⁵

Yet, Reclamation misses the opportunity to fully evaluate voluntary and mandatory enhanced conservation efforts. And it fails to sufficiently describe specific legal authority to impose mandatory conservation measures or incentivize voluntary conservation measures on the Basin States and Tribes. These points are discussed below.

¹⁵¹ *Id.*, Sec. 2.5.4.1, at 2-16.

¹⁵² *Id.*, Sec. 2.5.1.1, at 2-12.

¹⁵³ *Id.*, Sec. 1.2, at 1-5.

¹⁵⁴ *Id.*, Sec. 1.3, at 1-6.

¹⁵⁵ *Id.*, Sec. 1.3, at 1-7.

First, notwithstanding the stated purpose to promote water conservation measures, Reclamation contradicts itself by stating that it does not consider Upper Basin conservation measures in the NEPA analysis:

With respect to Upper Basin conservation, the nexus to the proposed federal action is the storage and delivery of that conserved water in Lake Powell. The effects of this storage in and delivery from Lake Powell are within the scope of the EIS, while specific activities that may be undertaken in the Upper Basin to generate the conserved water are not within the scope of this EIS. Any such activities are unknown at this time and will not necessarily require federal decision making. Any federal decisions associated with these conservation activities will be assessed outside of this EIS.¹⁵⁶

Reclamation provides no reason why it could not have requested information from the Upper Basin States documenting voluntary and mandatory conservation efforts currently underway and those planned for the future. If the Upper Basin States had nothing to report or refused to cooperate, that fact should have been noted in the analysis. But because the Draft EIS is not analyzing voluntary Upper Basin States conservation efforts/activities, this purpose of promoting water conservation is not satisfied under any of the alternatives.

A comprehensive conservation analysis would evaluate (a) existing and future voluntary conservation measures, (b) future incentivized water conservation measures, (c) mandatory water conservation measures, and (d) water conservation measures resulting from reductions in consumptive uses. Reclamation considers conservation efforts and programs underway in the Lower Basin but not the Upper Basin, and it provides no explanation for the disparate treatment of the two basins.¹⁵⁷ Reclamation's failure is particularly troubling given that Reclamation admits that failure to incorporate conservation measures in the modeling affects

¹⁵⁶ *Id.*, Sec. 1.5, at 1-9.

¹⁵⁷ *E.g.*, ICS Creation, DCP cuts (2019), 500K Plan, 1.5M Plan.

the impacts analysis during low flow conditions.¹⁵⁸ The time to evaluate conservation measures is now, not in the future when the Upper Basin States warm to the idea or the well runs dry.¹⁵⁹

Second, Reclamation states that a purpose of the proposed action is to “[p]rovide Colorado River water users a greater degree of **predictability** with respect to annual water availability in future years under anticipated increasing variability, low runoff, and low reservoir conditions.”¹⁶⁰ “Predictability” increases when the public knows the specific conservation programs/demand-reduction strategies that will be implemented. In contrast, Reclamation’s failure to include an analysis of conservation measures gives Upper Basin States ongoing license to not implement verifiable water conservation measures and strategies.

Third, the Draft EIS describes the opportunity for Tribes to store their unused water in the Lake Powell and Lake Mead in conservation pools or use conserved water as an Upper Basin conservation water volume.¹⁶¹ Reclamation should analyze the significant legal and technical questions regarding the availability of unused Tribal water for these purposes, including the extent to which previous beneficial use of such water has been measured and reported to ensure that credited volumes actually benefit the system and don’t represent a mere accounting of paper water rights. Reclamation should prepare supplemental analyses excluding unused Tribal water in the event of legal impediments so that the impacts of this element may be presented to the public and used in making a reasonable choice among alternatives.

¹⁵⁸ “The [Shortage Allocation Model] used to inform the [decision making under deep uncertainty] analysis **do not incorporate water management measures such as conservation programs or demand-reduction strategies**. These measures do not change entitlement amounts or shortages; however, as described in the affected environment section, **conservation programs and other management strategies can influence domestic water demand and help mitigate the operational pressures associated with shortage, uncertain supply, and population growth**.” See Draft EIS, Tech. Appx. 17, Sec. TA 17.2.3, at 17-29 (emphasis added).

¹⁵⁹ See generally *Grand Canyon Tr. v. Bureau of Reclamation*, 691 F.3d 1008, 1022 (9th Cir. 2012) (“The time for an agency to give a hard look at environmental consequences, and the opportunity for serious NEPA litigation on whether alternatives were adequately considered . . . [is when] an agency establishes operating criteria for a dam, or embarks on some significant shift of direction in operating policy.”).

¹⁶⁰ Draft EIS, Executive Summary, Sec. ES 1.1, at ES-5 (emphasis added).

¹⁶¹ Draft EIS, Sec. 2.6.3.3, at 2-22; Sec. 2.6.4.1., at 2-23; Sec. 2.8.4.1, at 2-35; Appx. B, Sec. B.6.1.2, at B-20).

Fourth, Reclamation states in its modeling assumptions that “[a]t low lake levels, the storage credits in Lake Powell may exceed the total storage in Lake Powell.”¹⁶² More information is needed on how this could occur and how it would affect releases from Lake Powell. Sufficient releases to satisfy the Compact should not be hindered by any Powell conservation water because the Lake exists most prominently to satisfy the Treaty with Mexico and the Compact.

D. Reclamation Failed to Identify a Preferred Alternative in the Draft EIS

Reclamation “has not identified a Preferred Alternative in this Draft EIS.”¹⁶³ Reclamation’s decision not to identify a preferred alternative in the Draft EIS is inconsistent with NEPA and the Law of the River. As a general matter, NEPA does not impose the statutory requirement that the lead federal agency identify a “preferred alternative” in the Draft EIS. However, prior to their rescission, the Council on Environmental Quality (“CEQ”) rules required that agencies identify in the draft NEPA document the agency’s preferred alternative if one existed unless another law prohibited such a preference.¹⁶⁴ This approach was consistent with NEPA guidance dating back to 1981: “The ‘agency’s preferred alternative’ is the alternative which the agency believes would fulfill its **statutory mission** and responsibilities, giving consideration to economic, environmental, technical and other factors.”¹⁶⁵

Since the CEQ regulations are rescinded, DOI and other agencies are developing their own NEPA implementing regulations and guidance.¹⁶⁶ DOI’s recently issued guidance tracks the CEQ 1981 guidance, i.e., the decision to include a preferred alternative is based on the agency’s mission and applicable regulatory requirements: “NEPA does not require bureaus to identify a preferred alternative in an EA or an EIS, although it may be helpful for situations in which the bureau considers a broad range of alternatives. [The bureaus] **should review program-specific requirements on this issue.**”¹⁶⁷ Furthermore, Bureaus should use their expert judgment and

¹⁶² See Draft EIS, Appx. B, Sec. B.2.1, at B-3.

¹⁶³ Draft EIS, Sec. 2.1, at 2-3.

¹⁶⁴ See 89 Fed. Reg. 35,442, 35,565 (May 1, 2024); (40 C.F.R. 1502.14(d) (“Identify the agency’s preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.”). Identifying preferred alternatives in draft NEPA documents (especially those that are environmentally preferable) “will increase transparency and allow the public to comment on it.” 89 Fed. Reg. at 35,504.

¹⁶⁵ 46 Fed. Reg. 18,026, 18,027 (Mar. 23, 1981) (emphasis added).

¹⁶⁶ 36 Fed. Reg. 10,610 (Feb. 25, 2025) (removal of NEPA implementing regulations).

¹⁶⁷ See DOI NEPA Implementing Procedures, Appx. 1, at 39 (emphasis added).

exercise their discretion in identifying the reasonable alternatives, which must be **technically and economically 'feasible.'**"¹⁶⁸

Choosing a preferred alternative in the Draft EIS would have been helpful to all stakeholders—especially to the Basin States as they attempt to reach a “consensus approach”—so that they know what Reclamation believes to be the most “technically and economically feasible” alternatives to meet the purpose and need of the proposed action.

More importantly, the DOI guidance advises bureaus that agency personnel “should review **program-specific requirements** on [the] issue” of whether to include a preferred alternative in the Draft EIS. This direction makes clear that such requirements may eliminate the discretion not to set forth a preferred alternative.¹⁶⁹ In this context, as set forth in the non-exhaustive list of legal authority summarized below, the Law of the River contains numerous “program-specific requirements” pursuant to which the Secretary has various mandatory duties that mandate development of an agency preferred alternative under which Reclamation satisfies its legal obligations pertaining to Colorado River operations:

- **Colorado River Compact:** The Supreme Court has recognized that “interstate [water] compacts” enable “the federal government” to defend “distinctively federal interests” in litigation and, short of litigation, such compacts “inextricably intertwine[]” federal water projects with “Downstream Contracts” under which the federal government “assume[s] a **legal responsibility** to deliver a certain amount of water.”¹⁷⁰ That is equally true in the case of the Colorado River Compact which imposes legal obligation on Reclamation to deliver water to satisfy its Treaty obligations with Mexico and water delivery contracts in the Lower Basin.
- **Boulder Canyon Project Act of 1928 (“BCPA”):**¹⁷¹ This act (1) ratified the 1922 Compact; (2) authorized the construction of Hoover Dam and related irrigation facilities in the lower Basin; (3) apportioned the lower basin's 7.5 maf among the states of Arizona (2.8 maf), California (4.4 maf) and Nevada (0.3 maf); and (4) authorized and directed the Secretary of the Interior to function as the sole contracting authority for Colorado River water use in the lower basin. Relevant legal authorities include BCPA § 4 (establishing the Lower Basin State’s allocations), BCPA

¹⁶⁸ *Id.*

¹⁶⁹ *See id.* at 38-39.

¹⁷⁰ *See Texas v. New Mexico*, 602 U.S. 943, 955 (2024) (quoting *Texas v. New Mexico*, 583 U.S. 407, 413 (2018) (emphasis added)).

¹⁷¹ 45 Stat. 1057, as amended, 43 U.S.C. § 617 et seq.

§ 5 (establishing that no one can divert Colorado River water in the Lower Basin without having a delivery contract with Secretary of the Interior).

- **Colorado River Storage Project Act of 1956 (“CRSP Act”):**¹⁷² This act addresses construction and operation of the CRSP reservoirs, provides a comprehensive Upper Basin-wide water resource development plan, and authorizes the construction of Glen Canyon, Flaming Gorge, Navajo and Curecanti dams for river regulation and power production, as well as projects for irrigation and other uses.
- **Colorado River Basin Project Act of 1968 (“CRBP Act”):**¹⁷³ CRBP § 602(a) provides that “to comply with and carry out the provisions of the Colorado River Compact [of 1922], the Upper Colorado River Basin Compact, and the Mexican Water Treaty, the Secretary shall propose criteria for the coordinated long-range operation of [the CRSP reservoirs and Lake Mead] The criteria shall make provision for the storage of water in [CRSP Reservoirs] and releases of water from Lake Powell in the following listed order of priority: (1) releases to supply one-half the deficiency described in article III(c) of the Colorado River Compact, if any such deficiency exists and is chargeable to the States of the Upper Division[.]; (2) releases to comply with article III(d) of the Colorado River Compact, less such quantities of water delivered into the Colorado River below Lee Ferry to the credit of the States of the Upper Division from other sources; and (3) storage of water not required for the releases specified in clauses (1) and (2) of this subsection to the extent the Secretary . . . shall find this to be reasonably necessary to assure deliveries under clauses (1) and (2) without impairment of annual consumptive uses in the Upper Basin pursuant to the Colorado River Compact: Provided, That water not so required to be stored shall be released from Lake Powell: (i) to the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact [except when] the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell[.]”
- **43 C.F.R. Part 417 (“Procedural Methods for Implementing Colorado River Water Conservation Measures with Lower Basin Contractors and Others”):**¹⁷⁴ These regulations implement the BCP Act and *Arizona v. California*, 376 U.S. 340 (1964) (the “1964 Decree”), and require, among other things, that Reclamation to make annual determinations of each contractor’s water orders to ensure “that deliveries

¹⁷² 70 Stat. 105, 43 U.S.C. §§ 620–620o.

¹⁷³ P.L. No. 90-357, 82 Stat. 885 (Sep. 30, 1968) (codified at 43 U.S.C. § 1521(b)).

¹⁷⁴ 37 Fed. Reg. 18076 (Sep. 7, 1972).

of Colorado River water to each Contractor will not exceed those reasonably required for beneficial use.”¹⁷⁵ In addition, under the regulations, Reclamation may limit irrigation methods, crop types and cropping practices, amount and rate of return flows, and impose other limitations designed to conserve water.¹⁷⁶

Given the above mandatory duties arising from its authority to establish reservoir operating parameters, Reclamation’s failure to provide a preferred alternative that describes how such authority would be exercised during low flow conditions under the post-2026 operations guidelines violates NEPA and defeats NEPA’s main purpose as recently articulated by the Supreme Court: “The law ensures that the agency and the public are aware of the environmental consequences of proposed projects. Properly applied, NEPA helps agencies to make better decisions and to ensure good project management.”¹⁷⁷

E. Reclamation Failed to Consider Under Each Alternative Lake Mead’s Protection Pool and Conservation Reserve and Interrelationships with SNWA’s Intentionally Created Surplus Accounts

As explained above, SNWA relies on Intentionally Created Surplus (ICS) and Tributary ICS water. Similarly, the Lake Mead Protection Pool promotes conservation opportunities for Basin Tribes. While SNWA and CRCNV acknowledge and appreciate that Reclamation referenced these conservation measures in the Draft EIS, SNWA and CRCNV provide the following comments and criticism of the analysis of the same.

First, one element of the Enhanced Coordination Alternative is the Lake Mead Protection Pool.¹⁷⁸ Reclamation explains that “[t]he Protection Pool could be used for a range of purposes, including, but not limited to, meeting federal firming obligations, other federal delivery obligations, protecting Lower Basin water supplies, protecting infrastructure, and providing environmental benefits.”¹⁷⁹ Similarly, the Maximum Operational Flexibility Alternative proposes establishment of a “Conservation Reserve” as “a flexible tool for water conservation and management.”¹⁸⁰ The Draft EIS explains that “Reclamation would determine how to allocate the Conservation Reserve volume . . . to meet . . . resource goals”¹⁸¹

¹⁷⁵ 43 C.F.R. § 417.2.

¹⁷⁶ *Id.* § 417.3.

¹⁷⁷ *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 177 (2025).

¹⁷⁸ See Draft EIS, Sec. 2.6.3, at 2-21.

¹⁷⁹ *Id.*, Appx. B, Sec. B.6.3, at B-29.

¹⁸⁰ *Id.*, Sec. 2.7, at 2-23 to 2-24.

¹⁸¹ *Id.*, Appx. B, Sec. B.7, at B-33.

Furthermore, “[a]t Reclamation’s discretion and in coordination with appropriate Basin entities, additional adjustments to Lake Powell [Water Year] release volumes could be made to mitigate potential negative impacts to resources between Glen Canyon Dam and Hoover Dam.”¹⁸²

Nevada notes that the Draft EIS text pertaining to the Lake Mead and Powell protection/conservation pools is treated strikingly different than another element related to pro rata shortage sharing, namely this description found in the Enhanced Coordination Alternative: “[A]dditional agreements and other legal authorities would be needed to implement any pro rata operations that are inconsistent with the Decree.”¹⁸³

At a minimum, Reclamation fails to acknowledge any additional agreements and other legal authorities that would be needed to operate the Lake Mead and Lake Powell protection/conservation pools as described. There are no equivalent qualifying statements recognizing the need for additional agreements or other legal authorities for the Conservation Reserve described in the Maximum Operational Flexibilities alternative. Because there are unresolved issues associated with controlling and operating the Lake Mead Protection Pool and Conservation Reserve, including potential connected federal actions that may be subject to inclusion in the Draft EIS, Reclamation must provide an explanation of potential additional agreements and legal authorities that may be needed to effectuate these elements, and then incorporate these actions into the proposed actions, as appropriate.

Second, the alternatives analysis should include not only existing, but also the creation and release of new, Tributary Conservation ICS. The Interim Guidelines creating this conservation mechanism state that “the provisions of this Forbearance Agreement for creation, and release . . . of Tributary Conservation ICS shall continue in full force and effect after termination of this Forbearance Agreement until the earlier of (1) the termination of the period provided in the ROD for the creation, release, and use of Tributary Conservation ICS and Imported ICS, or (2) fifty years from the date of execution of this Forbearance Agreement.”¹⁸⁴

¹⁸² *Id.*, Sec. 2.6.2.3, at 2-20.

¹⁸³ *Id.*, Sec. 2.6, at 2-16 and n.18.

¹⁸⁴ LCR ICS Forbearance Agreement, at 5 (executed December 13, 2007), available at <https://www.usbr.gov/lc/region/programs/strategies/documents.html>. The Forbearance Agreement and SNWA’s Delivery Agreement provide the legal basis for any ICS or other conserved water that is created by SNWA to remain available in Lake Mead for SNWA’s exclusive benefit until SNWA requests delivery of the ICS. ICS creation and delivery benefits are also available during periods of declared shortage through two mechanisms. The Developed Shortage Supply (DSS) mechanism found in Section 4 of the 2007 Interim Guidelines allows for the creation and delivery of some types of ICS during a declared shortage, and Exhibit 1 to Attachment B of the Agreement Concerning Colorado River Drought Contingency Management

For SNWA's Tributary Conservation ICS from the Muddy and Virgin rivers, both these timelines end in 2057. Yet, the Draft EIS fails to adequately describe that for all alternatives, including the No Action Alternative, SNWA is authorized to create and deliver Tributary Conservation ICS to 2057.

Third, the significant reduction in volumes available for Nevada to create, store, and deliver ICS in the Enhanced Coordination and Maximum Operational Flexibility alternatives is arbitrary and unacceptable. Similarly, it is not clear how or whether Reclamation intends to protect ICS that is stored in Lake Mead, or to allow deliveries of ICS water to other uses as Lake Mead declines. Given the existing legal and binding agreements governing ICS water to which Reclamation is a party, SNWA's volume of ICS, Drought Contingency Plan ICS, and Developed Shortage Supply water should not be delivered to other contractors even if the Secretary of the Interior declares a shortage condition exists. As the smallest State entitlement holder and most sustainable water conservation actor in the Colorado River Basin, Nevada must specifically be allowed to at minimum retain the opportunity to create, store, and deliver ICS at or above current allowances. Reclamation should prepare supplemental analyses adopting Nevada ICS volumes across all of the alternatives that are at or above the current volumes allowed. As analyzed, the Enhanced Coordination and Maximum Operational Flexibility alternatives include ICS volumes that are insufficient and unacceptable to Nevada, and they represent roadblocks toward Nevada achieving water security. Moreover as a general matter, modifications should be made under extremely limited circumstances such that ICS that is stored in Lake Mead is available when Lake Mead is below elevation 1,025 feet to the contractor that stored the water if sufficient protections can be provided to satisfy the public health, safety, and welfare needs of municipal water users.

Fourth, the Draft EIS includes modeling assumptions that indicate that both the creation and delivery of Tributary Conservation ICS is considered, but the more important description of alternatives found in Chapter 2 does not.¹⁸⁵ The alternatives analysis should include not only existing, but also creation and release of new Tributary Conservation ICS.

Fifth, the Maximum Operational Flexibility Alternative does not utilize Lake Mead storage as part of the Glen Canyon Dam release determinations, but Lower Basin shortages are based on the combined system storage. Modifying Glen Canyon Dam releases based on a system wide storage approach would improve reservoir coordination.

and Operations authorizes the creation and delivery of Drought Contingency Plan ("DCP") ICS during periods of declared shortage.

¹⁸⁵ See Draft EIS Appx. B, Secs. B.4.2.5, B.6.2.5, and B.8.2.5. For example, Draft EIS, Sec. 2.1.3.2 references only the delivery of ICS that remains in Lake Mead in 2027.

Sixth, Appendix B mentions that lower priority water users, such as MWD, CAP, and SNWA, would not be able to take delivery of unused water from the Lower Division Tribes stored in the Protection Pool, but Appendix H states that some Arizona Priority 4 users would. Appendix H should explain which contracts are unable to take delivery.

F. Reclamation Failed to Consider Nevada's Contract Rights to Withdraw Lake Mead Water During Dead Pool Conditions

Nevada appears to be included in the group of water users to which dead pool-related reductions are distributed; however, this assumption fails to recognize that SNWA is able to take delivery of water in Lake Mead at dead pool elevation while other water users are not. Specifically, the Boulder Canyon Project Act ("BCPA") contract includes a provision regarding the "[d]elivery of Water by the United States" which states that the "United States shall . . . deliver to the Authority such quantities of water as may be determined reasonably required for beneficial use by the Authority within the limitations hereinafter specified and to the extent such water is available for delivery to Nevada."¹⁸⁶ Moreover, SNWA's third drinking water intake and low lake level pumping station provide the facilities necessary to ensure that any water that may be stored below dead pool is available for delivery to SNWA.¹⁸⁷ Under dead pool elevations, while stored water is unavailable to all other BCPA contract holders, it is exclusively available to SNWA. This fact should be included in and analyzed the alternatives analysis.

G. Reclamation Failed to Analyze for Each Alternative Equitable Reductions of Evaporation and Storage Losses

Reclamation indicates that the Hydrologic Model used in the NEPA analysis included evaporation rates for reservoirs.¹⁸⁸ While the modeling assumptions do include an annual evaporation deduction (equal to the conservation pool's proportional share of total evaporation in Powell), none of the alternatives nor modeling assumptions include any complete analysis in parity with the Lower Basin's. As SNWA has previously indicated to Reclamation, equivalent equitable reductions of evaporation and storage losses remain an important element which should be adopted into one or more alternatives and included in the impacts analysis.¹⁸⁹

¹⁸⁶ SNWA Contract for Delivery of Colorado River Water, Contract No. 2-07-30-W0266, § 4(a) (1992); see also Contract No. 2-07-30-W0266 Amendment No. 1, § 4(a) (1994).

¹⁸⁷ SNWA 2026 Water Resource Plan, at 8, 23.

¹⁸⁸ See Draft EIS, Sec. 3.2.4, at 3-7.

¹⁸⁹ See Letter from John Entsminger (SNWA) and Eric Witkoski (CRCNV) to Tanya Trujillo (Dec. 20, 2022).

Moreover, a lack of parity of creation and evaporation/loss assessments exists between the Upper and Lower Basins. Specifically, the Enhanced Coordination Alternative provides for a 7% assessment to Lower Basin conservation creation, but assigns no equivalent assessment to Upper Basin conservation.¹⁹⁰ Reclamation should address these deficiencies in supplemental analyses.

H. Reclamation Failed to Include an Alternative that Addresses Conservation Opportunities to Mexico

Reclamation explains in the Draft EIS that:

Determination of deliveries to Mexico is not a part of the proposed federal action. Any such determination would be made in accordance with the 1944 Water Treaty. Nevertheless, modeling assumptions regarding water deliveries to Mexico are necessary in order to analyze the potential impacts to hydrologic and other environmental resources. Reclamation's modeling assumptions are not intended to constitute an interpretation or application of the 1944 Water Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Water Treaty with Mexico through the IBWC in consultation with the Department of State.¹⁹¹

Reclamation's failure to include conservation opportunities to Mexico in the alternatives skews the analysis to the detriment of the Lower Basin States and Mexico. Furthermore, assumed reductions in deliveries to Mexico have been modeled, but assumed conservation was not modeled in any alternative. Anticipated conservation activities should have been included. The 1944 Mexican Water Treaty has allowed Mexico to develop conservation water and store it in Lake Mead and future water conservation by Mexico is a reasonable assumption that should be included in the analysis.

I. Reclamation Failed to Include the 417 Process in the Alternatives Analysis

Reclamation acknowledges that the "Procedural Methods for Implementing Colorado River Water Conservation Measures with Lower Basin Contractors and Others," found at 43

¹⁹⁰ See Draft EIS, Sec. 2.6.3.2, at 2-22; *id.* Appx. B, Sec. B.6.3.6, at B-32.

¹⁹¹ *Id.*, Sec. 2.2, at 2-3.

C.F.R. Part 417, are included in the Law of the River.¹⁹² However, Reclamation fails to analyze how implementation of the “417 Conservation Process” can be incorporated into the proposed action to advance the purpose and need of promoting water conservation. Reclamation should update and apply 417 “reasonable and beneficial use determinations” to the NEPA analysis to promote conservation and reduce the risk that delivered system water is being wasted.

J. Reclamation Failed to Equitably Reduce Water Availability between the Upper and Lower Division States Given Projections of Future Inflows

Reclamation failed to equitably reduce water availability between the Upper and Lower Basin States, given projections of future inflows. Maximum shortage volume is set at a level estimated by Reclamation to ensure that an assumed minimum flow maximum; shortage volume is set at a level estimated by Reclamation to ensure that an assumed minimum flow.

The recent multi-decadal drying trend in the Colorado River Basin and subsequent reduction in Colorado River flow has been confirmation of what climate scientists have been reporting that regarding future flows of the Colorado River. However, instead of allocating these basin-wide impacts equitably between the Upper and Lower Division States, Reclamation unreasonably disadvantages the Lower Division States, thus unfairly assigning blame to the Lower Division States for diminished future inflows. For example, in the Enhanced Coordination Alternative, reductions above 1.5 maf are applied at a 2 to 1 ratio with the Lower Basin required to reduce consumptive use twice as much as the Upper Basin.¹⁹³ Also under the Enhanced Coordination Alternative, Reclamation improperly imposes the burden on the Lower Basin to make up any shortage amount not available to the Upper Basin in its conservation pool. Reductions in future inflows should be shared equitably among the Upper and Lower Basins.

¹⁹² *Id.*, Sec. 1.8.2.1, Table 1-1, at 1-14.

¹⁹³ *See id.*, Sec. 2.6.3.1, at 2-21 (“Water held in the Lake Powell conservation pool would be converted to system water and combined with Lower Basin shortages to provide system benefits based on the shortage curve in Figure 2-5. When Lower Basin CY shortages are greater than 1.5 maf, a volume equal to one-third of the volume above 1.5 maf would be converted from the Lake Powell pool into system water such that the total of Lower Basin shortages and conversion of Upper Basin water equal the required total shortage volume (i.e., above 1.5 maf, there is a 2-to-1 Lower Basin shortage-to-Upper Basin conversion ratio). If the prescribed 2-to-1 volume is not available in the Lake Powell conservation pool, 100 percent of the available volume would be converted, and the Lower Basin would take the balance of shortages.”).

K. Reclamation Should Have Considered a Phased Alternative to Address Long-Term Measures to Meet the Purpose and Need

Reclamation states in Draft EIS, Chapter 1, that:

To provide stability and predictability to Basin water users, the Secretary intends that the interim period extend approximately 20 years; however, given the ongoing efforts toward achieving consensus among various Basin entities regarding appropriate post-2026 operations, the Secretary remains open to a shorter duration or phased implementation as part of a longer-term framework.¹⁹⁴

For the reasons below, Reclamation must issue a supplemental environmental impact statement that includes an alternative that identifies and analyzes long-term measures to meet the purpose and need.

First, Nevada recognizes that the current operational guidelines expire at the end of this year and that Reclamation must shortly implement the proposed action. However, the proposed action does not include some of the longer-term and more sustainable measures to meet the project purpose and need and to comply with the Law of the River. Some of the longer-term measures include, but are not limited to, reparations of the river outlet works, penstocks, and trailrace, implementation of voluntary or mandatory conservation and/or consumptive use reductions on the Upper Basin States, and creation of a conservation pool program in Lake Powell. Without these longer-term measures, the proposed action and the alternatives analysis to satisfy the purpose and need on a long-term basis is incomplete and violates NEPA—it is incumbent on the lead agency, not stakeholders, to identify and analyze a reasonable range of alternatives that fully satisfies the project purpose and need.¹⁹⁵

Second, without an alternative that includes long-term measures that require additional time and effort to develop, Reclamation violates its obligations to maintain the infrastructure in working order and to comply with water delivery requirements in low flow conditions as required by the Law of the River.¹⁹⁶

¹⁹⁴ Draft EIS, Sec. 1.1, at 1-2.

¹⁹⁵ NEPA § 102(2)(C)(iii), 42 U.S.C. § 4332(2)(C)(iii).

¹⁹⁶ *Supra* p. 23.

Third, phased (or “staged”) alternatives are commonly used when the proposed action must be implemented in phases rather than all at once, but must be considered in a single NEPA document to avoid segmentation of connected actions.¹⁹⁷

VII. Reclamation’s Model Used to Develop and Compare Alternatives Includes Numerous Errors and Inaccurate and Incomplete Assumptions

Nevada identifies the following issues regarding the modeling Reclamation used to develop and compare alternatives.

First, the demand schedules used and the sensitivity analysis applied to the modeling, as shown in Appendix I, show Lake Powell and Mead’s critical elevations are highly sensitive to the Upper Basin demand inputs in all but one of the action alternatives.¹⁹⁸ This raises the question about the modeling’s reliability.

Second, as to the sensitivity analysis in Appendix K, Method B assigns a reduction volume to Mexico that is proportional to the total volume of reductions taken by the United States. The United States’ reductions come from law and policy that have reduced Lower Basin allocations, and in consideration of has been referred to as “hydrologic shortages” in the Upper Basin. Hydrologic shortages are calculated as the difference between the Upper Basin’s demand schedule and the modeled water delivery.¹⁹⁹ Without sufficient support, Reclamation’s Upper Basin demand schedule is highly optimistic because it assumes surplus water can meet some of the demands. In other words, the model is not sophisticated enough to determine whether an Upper Basin water user is, in fact, shorted. The methodology thus considers any unmet demand as a shortage based on unwarranted assumptions that the supposed shortage to a water user is, in fact, a shortage, rather than a junior use that is rarely available because of over-appropriation.

All river basins have various categories of use (both formally and informally). These can loosely be characterized into base-flow water rights and surplus or flood-flow water rights. Surplus-flow rights are issued subject to the understanding that the water right will not be satisfied every year because surplus water is simply not available every year. Similarly, basins may be over-appropriated, meaning that more water rights were issued than can be routinely satisfied. Neither a surplus/flood flow water right nor a water right issued in an over-appropriated basin should be considered as the amount of water the Upper Basin is being “shorted.”

¹⁹⁷ See *Kleppe v. Sierra Club*, 427 U.S. 390, 409-10, 96 S. Ct. 2718, 2730 (1976); *Del. Riverkeeper Network v. FERC*, 753 F.3d 1304, 1313 (D.C. Cir. 2014).

¹⁹⁸ Draft EIS, Appx. I.

¹⁹⁹ Draft EIS, Appx. K.

To adequately address this issue, a significantly more rigorous analysis is required rather than simply relying on the nodes in which the Upper Basin demands are aggregated (approximately two dozen points for the entire Upper Basin). At an absolute minimum, a water-rights based model and/or an inventory of each tributary, with an understanding of the historical use and availability of each water user's rights/entitlement is necessary. The historical availability of a water right should ultimately determine whether the "unavailability" of that right can be considered shortage. For example, if a water right was issued in 1920 and has been satisfied in over 90% of years, then the inability to satisfy that right would likely be a shortage. But, if a water right was issued in 1968 and it has only been fully met once every 5 years, the other four years should not be considered shortage.

Furthermore, the Colorado River Simulation System ("CRSS") model increases demand throughout time, further exacerbating the deficiencies noted above. If the demand node is already experiencing "shortage," and every single model node does, and more demand is added, the result is not shortage, but rather over appropriation. The Upper Basin's failure to manage uses to the water supply available to them, and to issue water rights accordingly, should not be the basis of calculating shortages. Numerous courts within the Upper Basin have questioned the sufficiency of analysis for future projects or denied projects based on the requirement to curtail use under the Compact. Thus, stakeholders broadly understand that, at present, new water rights issued are likely to be curtailed and the reductions to those rights issued with that understanding would not constitute a shortage.²⁰⁰ Thus, the methodology of simply subtracting the depletion from the demand schedule, while still allowing the schedule to grow throughout time, is fatally flawed and should be eliminated from this analysis.

VIII. The Four "Operational Elements" Used to Establish the Operational Assumptions Underlying Each Alternative and to Compare Impacts Contain Errors and False Assumptions Which Skew the Analysis of Alternatives and Impacts

Reclamation provides four "Operational Elements" to establish the operational assumptions underlying each alternative and to compare their respective impacts. One such element, identified as "Additional Activities Above Lake Powell," includes "conservation by Upper Basin water users to support critical elevations at Lake Powell and other important system goals."²⁰¹ However, Reclamation provides no details regarding the specific conservation measures referenced, nor does Reclamation assign conservation volumes to specific Upper

²⁰⁰ See *Water Horse Resources v. Wilhelmsen*, 2025 UT 43, 11-12, 16 (2025) ("The Upper Basin is required to deliver the entire 7.5 MAF (or 75 MAF every 10 years) before taking its allocation"); *Save the Colorado v. U.S. Army Corps of Engineers*, 2024 WL 4519201 N. 24 (D. Colo. Oct. 16, 2024) ("it is perplexing to this Court that the Corps dismissed the possibility of a compact call in its analysis of a proposed water management project").

²⁰¹ Draft EIS, Sec. 2.2.4, at 2-5.

Basin States or users. Generally mentioning conservation without specific details provides insufficient information to factor into the analysis, especially given the reluctance of Upper Basin States to implement meaningful conservation measures.

With respect to the Operational Element relating to “Delivery of Conserved System and Non-System Water,” Reclamation explains that “[w]hile delivery of some existing stored water remains available after 2026 pursuant to existing agreements, Reclamation will establish guidelines for administration of a **new** storage mechanism as part of this public NEPA process. The guidelines will set forth **Reclamation requirements** for verification of the conservation action and water accounting procedures.”²⁰²

Reclamation should have been more specific regarding which basins would be subject to “new” storage mechanisms and identify and analyze “future” conservation verification and water accounting procedures. Moreover, the Lower Basin has been required to provide Reclamation with detailed annual planning and verification reports since the Intentionally Created Surplus (“ICS”) program began in 2008. Reclamation should hold the Upper Basin to the same planning and verification standards as the Lower Basin.

IX. The Draft EIS Impacts Analysis Violates NEPA

NEPA requires federal agencies to consider the reasonably foreseeable environmental effects of major federal actions significantly affecting the quality of the human environment, as well as alternatives to proposed actions.²⁰³ Agencies generally accomplish this procedural mandate by preparation of an EIS, a “detailed statement” that serves NEPA’s twin aims to ensure that (1) federal agencies will “have available, and will carefully consider, detailed information concerning significant environmental effects” and (2) “relevant information will be made available” to the public and other government agencies.²⁰⁴ When “[p]roperly applied, NEPA helps agencies to make better decisions and to ensure good project management.”²⁰⁵

In considering environmental effects, DOI guidance directs agencies to consider, “as appropriate to the proposed action,” “any connected actions, the scope of the affected area . . . reasonably foreseeable trends and planned actions within that area, and the affected area’s natural and cultural resources.”²⁰⁶ The agency must take into account both short- and long-term effects, beneficial and adverse effects, effects on public health and safety, economic

²⁰² *Id.* (emphasis added).

²⁰³ 42 U.S.C. § 4332(2)(C)(i), (iii).

²⁰⁴ *Robertson v. Methow Valley Citizen’s Council*, 490 U.S. 332, 349-50 (1989).

²⁰⁵ *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 177 (2025).

²⁰⁶ DOI NEPA Implementing Procedures, § 1.2(b)(1), at 4.

effects, and effects on the quality of life of the American people.²⁰⁷ The agency must “make use of reliable existing data and resources.”²⁰⁸

NEPA’s action-forcing provision demands that agencies take a “hard look” at the environmental consequences of proposed federal actions.²⁰⁹ To satisfy the “hard look” requirement, “an agency must provide ‘a reasonably thorough discussion of the significant aspects of the probable environmental consequences.’”²¹⁰ Agencies should use “the best available information and the quantitative and or qualitative analyses to provide a reasoned basis for making a choice among alternatives.”²¹¹ In reviewing an EIS under the Administrative Procedure Act’s arbitrary and capricious standard, the court considers whether the agency “considered the relevant factors and articulated a rational connection between the facts found and the choices made.”²¹²

Reclamation’s Draft EIS impact analysis is not consistent with NEPA’s “hard look” standard. In some instances, the analysis is incomplete, confusing, or lacking in detail. In other instances, Reclamation resorts to listing numbers of affected acres or tallying the number of affected counties without discussing in sufficient detail the actual impacts. General statements about possible effects are not sufficient to adequately disclose the potential impacts of the alternatives to the public or inform the decisionmaker.²¹³ The following examples discuss the deficiencies in key areas.

A. Reclamation’s “Continued Current Strategies (CCS) Comparative Baseline” Fails to Provide a Reasonable Basis to Compare Impacts from the Various Alternatives

Reclamation describes the “CCS Comparative Baseline” scenario as follows:

[A]s described in Chapter 2, due to the expiration of current domestic and international implementing agreements, the No Action Alternative represents a change in operations. As such, the No Action Alternative in this EIS does not serve as an appropriate

²⁰⁷ *Id.* at § 1.2(b)(2).

²⁰⁸ *Id.* at § 3.7.

²⁰⁹ *Cascadia Wildlands v. Bureau of Land Management*, 153 F.4th 869, 879 (9th Cir. 2025).

²¹⁰ *Id.* at 902 (quoting *350 Montana v. Haaland*, 50 F.4th at 1254, 1265 (9th Cir. 2022)).

²¹¹ *See 350 Montana v. Haaland*, 50 F.4th 1254, 1265, 1279 (9th Cir. 2022).

²¹² *N. Cascades Cons. Council v. U.S. Forest Serv.*, 136 F.4th 816 (9th Cir. 2025).

²¹³ *W. Watersheds Project v. Abbey*, 719 F.3d 1035, 1047 (9th Cir. 2013).

baseline to compare impacts. To address this challenge, a CCS Comparative Baseline scenario is provided to assess the impacts if operations continued under the current direction and strategies. While the CCS Comparative Baseline is not an action alternative, it is a contemporary set of operations that stakeholders are familiar with that can be used to comparatively evaluate the performance of the alternatives (including the No Action Alternative).

The [CCS] modeling assumptions were designed to reflect a continuation of the primary existing agreements for Colorado River management including the 2007 Interim Guidelines, the 2019 DCP and Minute 323 of the 1944 Water Treaty.²¹⁴

Similar to the Reclamation's failure to incorporate a legally sufficient no action alternative, as addressed above, here the Reclamation falls short of NEPA's evaluation and disclosure requirements in its use of the CCS scenario. Reclamation fails to include in either the CCS or no action alternative the steps it will actually have to take to comply with the Law of the River if there is no action by Reclamation and no agreement reached among the Basin States.

As the Ninth Circuit has explained, the "no action alternative in an EIS allows policymakers and the public to compare the environmental consequences of the status quo to the consequences of the proposed action. The no action alternative is meant **to provide a baseline against which the action alternative . . . is evaluated.**"²¹⁵ A "true 'no action alternative'" establishes a baseline reflecting the elements of existing management plans that comprise the "status quo."²¹⁶ So too here. An accurate baseline scenario must incorporate those concepts.

Given the uncertainties regarding operations after expiration of the 2007 Interim Guidelines, Reclamation could have used multiple no action alternatives or scenarios to evaluate such a baseline such as an extension of the 2007 Interim Guidelines as well as operations without an extension of the 2007 Interim Guidelines.²¹⁷

²¹⁴ Draft EIS, Sec. 3.2.3, at 3-5.

²¹⁵ *Center for Biological Diversity v. U.S. Dep't of Interior*, 623 F.3d 633, 642 (9th Cir. 2010) (emphasis added).

²¹⁶ *See Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1037-38 (9th Cir. 2008) (striking down SEIS for Merced River Wild and Scenic Comprehensive Management Plan for improper use of no action alternative in violation of NEPA).

²¹⁷ *See* Mandelker, *NEPA Law and Litigation* § 10:33 (2022 ed., Aug. 2022 update) ("[N]othing in NEPA prevents an agency from considering multiple no action alternatives"); *see Center for*

While Reclamation was not required to consider multiple no action alternatives, or baseline scenarios, Reclamation's failure to use the No Action Alternative as a status quo baseline to consider any reasonably foreseeable impacts beyond 2026 vitiates NEPA's alternatives analysis requirements. As a result, the Draft EIS underplays the socioeconomic and other impacts under the No Action Alternative, which are projected to increase over time.

B. Reclamation Failed to Adequately Consider Economic, Population, and Land Use Impacts on the Lower Basin States

Socioeconomic impacts extend beyond Clark County. The Draft EIS analysis area for socioeconomic effects in Nevada accounts "solely for Clark County."²¹⁸ The Draft EIS explains that "[s]hortages in Nevada would be limited to Southern Nevada Water Authority's service area," so the impact analysis was limited to that area.²¹⁹ But the reality is that the effects of water shortages in Clark County, Nevada, which is the state's largest metropolitan area, will affect the entire state.

Southern Nevada obtains about 90 percent of its water supply from the Colorado River.²²⁰ Clark County's population accounts for 70 percent of the State of Nevada and more than 70 percent of Nevada's economic output.²²¹ One study concluded that Colorado River water accounts for approximately \$115.4 billion of Nevada's gross state product:

The total impact of the loss of Colorado River water for one year for the State of Nevada economy is estimated at \$115.4 billion GSP, over 1.4 million jobs, and approximately \$70.6 billion labor income (2014\$). To put this into perspective, an estimated 87.4% of the State of Nevada's annual GSP could be lost if Colorado

Biological Diversity v. FERC, 67 F.4th 1176, 1182 (D.C. Cir. 2023) (upholding use of "true no-action alternative" and "likely no-action alternative" in order to avoid confusion in connection with authorization to construct natural gas pipeline and related facilities); *Red Lake Band of Chippewa Indians v. Army Corps of Eng'rs*, 636 F.Supp.3d 33, 66-67 (D.D.C. 2022) (upholding use of multiple no action alternatives used in Army Corps of Engineers NEPA analysis of impacts from dredge and fill permit to support oil pipeline construction).

²¹⁸ Draft EIS, Sec. 3.16.1, at 3-171; *id.*, Sec. 3.17.2, at 3-187 (same).

²¹⁹ *Id.*, Tech. Appx. 16, Sec. TA 16.1.1, at 16-3.

²²⁰ See generally SNWA 2026 Water Resource Plan, at 13.

²²¹ See Draft EIS, Sec. 3.16.1, at 3-172 (Clark County accounts for 74% of Nevada employment).

River water is no longer available to residents, businesses, industry, and agriculture.²²²

Contraction of the economy in Clark County has implications for the economy of the state as a whole, including the functioning of state government services on a broadscale. The relative importance of SNWA's water supply to economic growth in the entire state merits careful consideration and comparison among alternatives. Failure to conduct such an analysis renders the Draft EIS incomplete and inaccurate.

The socioeconomic effects analysis fails to take a hard look at the effects on municipal water use. NEPA requires a robust evaluation of direct and indirect effects, especially the socioeconomic impacts of managing the supply of water to 40 million people and of generating hydroelectric renewable power for western energy markets.²²³ Courts have noted the importance of addressing socioeconomic impacts to ensure NEPA compliance in connection with other Reclamation water supply projects.²²⁴

²²² See Arizona State University, *The Economic Importance of the Colorado River to the Basin Region*, at 15-16 (Dec. 18, 2014), available at <https://protectflows.com/wp-content/uploads/2015/01/PTF-Final-121814.pdf>.

²²³ See NEPA § 101(a), 42 U.S.C. § 4331 (purpose of NEPA “to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the **social, economic**, and other requirements of present and future generations of Americans.”) (emphasis added); *id.* § 102(2)(C), 42 U.S.C. § 4332(2)(C) (“[A]ll agencies of the Federal Government shall— . . . include in every recommendation [for] major Federal actions significantly **affecting the quality of the human environment**, a detailed statement . . . on reasonably foreseeable environment effects.”) (emphasis added); see *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 773-74 (1983) (“To determine whether [NEPA] § 102 requires consideration of a particular effect, we must look at the relationship between that effect and the change in the physical environment caused by the major federal action at issue,” looking for “a reasonably close causal relationship between a change in the physical environment and the effect at issue.”).

²²⁴ *Nat'l Wildlife Fed. v. Nat'l Marine Fisheries Serv.*, 184 F. Supp. 3d 861, 904 (D. Ore. 2016) (remanding decision to Reclamation and Army Corps to prepare an EIS that among other things considered “socioeconomic processes” relating to “harvest, hatchery production, and hydropower operations” in connection with change of operations of the Federal Columbia River Power System); *Center for Env't Law and Policy v. Bureau of Reclamation*, 715 F. Supp. 2d 1185, 1193 (E.D. Wash. 2010) (upholding EIS in part because Reclamation included in the EIS a detailed “discussion of effects on socioeconomics and land use in the [d]ownstream communities” and impacts on “existing agricultural activities” in connection with Lake Roosevelt Drawdown Project).

The Draft EIS's analysis of impacts to municipal water users falls short in several respects. *First*, the focus of the analysis is on population **growth** and loss of opportunity for population growth—i.e., people who do not yet live in the impact area—without adequate attention to impacts to **existing** populations that already depend on Colorado River water supplies to support their daily lives.²²⁵ The analysis evaluates the robustness of alternatives based on which “would likely result in fewer potential indirect impacts on **population growth**.”²²⁶ For Nevada, the discussion addresses how water deliveries will affect “constraints on **new** housing, commercial development, and essential municipal services that depend on water supply,” and that alternatives with lower reliability are likely to “limit the **capacity of communities to expand**, influence land use patterns, or delay **new** construction projects.”²²⁷

Reclamation acknowledges in Chapter 1 that “balancing the potentially profound impacts of water delivery reductions with the need to maintain reservoir storage” is an important tradeoff to be considered in evaluating alternatives.²²⁸ Yet, the only open acknowledgement of impacts on the people who live and work in communities dependent on Colorado River water is the shockingly cavalier statement that “[s]hould shortages result in a reduction or elimination of legal access to municipal water, widespread impacts on social and economic conditions could also be possible.”²²⁹ Indeed, “[i]n some scenarios, municipalities could find the need to pursue alternative water sources or hauled water, **if available**, as an alternative to support continued services.”²³⁰

Other than these offhand statements, there is no analysis of the very real and dire effects to millions of municipal water users if the taps are turned off, or water use must be significantly curtailed. There cannot be a more profound impact than a situation in which a municipal region, like Southern Nevada with a population of more than 2 million residents, must consider providing “hauled water.” The economic cost of such an impact would be astronomical. And the social costs are unfathomable. A few throwaway statements that portend a grim future for lower basin communities do not reflect the mandatory “hard look” at the effects of Colorado River management or a considered tradeoff between the impacts of

²²⁵ See Draft EIS, Sec. 3.17.1, at 3-184 (“Population growth can increase the demand for domestic, agricultural, and industrial use and increase pressure on existing water sources. Studies have shown that population growth can be a dominant driver of long-term municipal water demand.”).

²²⁶ *Id.*, Sec. 3.17.2, at 3-189 (emphasis added).

²²⁷ *Id.*, Sec. 3.17.2, at 3-191 (emphases added).

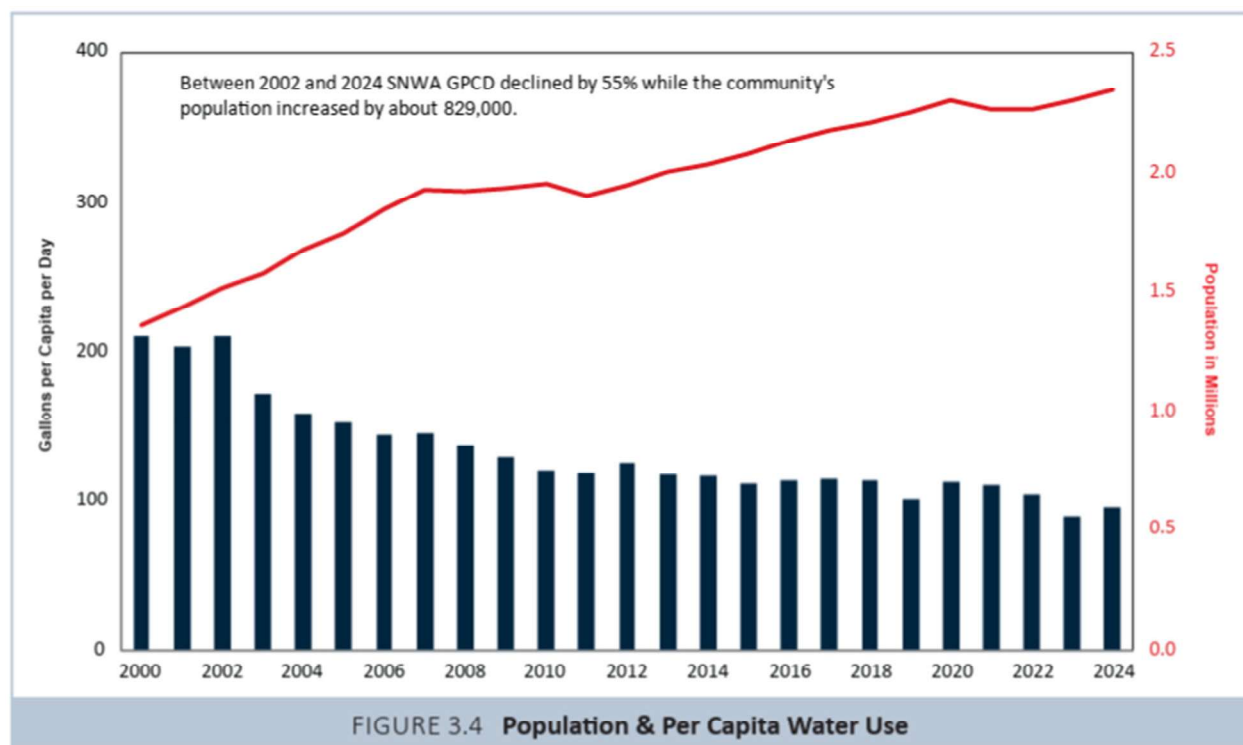
²²⁸ *Id.*, Sec. 1.1, at 1-2.

²²⁹ *Id.*, Sec. 3.17.2, at 3-193.

²³⁰ *Id.* (emphasis added).

delivery reductions with maintaining reservoir storage. NEPA requires Reclamation to fully consider the weight of the socioeconomic and population impacts, including to the landscapes and people that live there.

Second, the analysis assumes that population effects are tied to water availability without any consideration of the critical element of water conservation. Southern Nevada continues to implement one of the most progressive water conservation programs in the nation that has yielded significant water savings over the last 20 years.²³¹ Southern Nevada has decreased per capita water use by 55 percent between 2002 and 2024, even as population in Clark County has increased by 55 percent during the same timeframe.²³² The figure below shows Southern Nevada's progress in water conservation, reaching a per capita water use of approximately 100 gallons per day.²³³ It is this conservation that has sustained Clark County's capacity for population growth, given that Southern Nevada's Colorado River apportionment has remained unchanged for decades.



²³¹ See SNWA Water Resources Plan (2025); *see also supra* pp. 1-3, above.

²³² See SNWA Water Resources Plan (2025), at 38.

²³³ The Draft EIS report that Southern Nevada's water use is "approximately 126-150 gallons per day" is incorrect. See Draft EIS, Appx. 17, Sec. TA 17.1.2, at 17-4.

While water conservation remains a top priority, the opportunities for additional water savings per capita are fewer in southern Nevada where substantial conservation gains have already been made.²³⁴ Southern Nevada's ambitious water conservation goal is to reach 86 gallons per day by 2035.²³⁵

By contrast, in some areas served by the Colorado River, conservation has not been prioritized, and opportunities for large water savings at lower costs continue to exist.²³⁶ These disparities in costs of water conservation measures must be factored into the socioeconomic impact analysis to inform the public and Reclamation's decision.

Third, the Draft EIS does not consider the economic costs to municipal water agencies of decreased supply. While NEPA does not require quantification of all environmental impacts or a full cost-benefit analysis, where an agency chooses to quantify some socioeconomic costs and benefits, it must similarly quantify other socioeconomic costs and benefits to avoid the type of one-sided, misleading impact analysis that courts have repeatedly rejected.²³⁷

Reclamation takes into account potential economic losses in the agricultural sector and to river-based recreation, but fails to similarly quantify the economic, including workforce,²³⁸

²³⁴ See Statement of John J. Entsminger, General Manager, Southern Nevada Water Authority before the U.S. Senate Committee on Energy and Natural Resources (June 14, 2022); and Southern Nevada Water Authority Operating and Capital Budget 2025, available here.

²³⁵ SNWA 2026 Water Resources Plan, at 39.

²³⁶ See generally Heather Cooley, NRDC, Agricultural Water Conservation and Efficiency Potential in California (June 2014), available at <https://www.nrdc.org/sites/default/files/ca-water-supply-solutions-ag-efficiency-IB.pdf>; California Water Resources Control Board, Imperial Irrigation District Alleged Waste and Unreasonable Use of Water available at Imperial Irrigation District Alleged Waste and Unreasonable Use of Water (June 1984) available at https://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/decisions/d1600_d1649/wrd1600.pdf.

²³⁷ *Ctr. for Biological Diversity v. NHTSA*, 538 F.3d 1172, 1198 (9th Cir. 2008) (agency "cannot put a thumb on the scale by undervaluing the benefits and overvaluing the costs").

²³⁸ See Draft EIS, Sec. 3.16.1 at 3-173. The first paragraph under the heading "Nevada" presents employment in Arts, Entertainment, and Recreation (NAICS 71) in Clark County. However, for a tourism-based economy such as Clark County's, the Bureau of Labor Statistics' Leisure and Hospitality supersector provides a more appropriate measure of tourism-related employment. As defined by the BLS, the Leisure and Hospitality supersector combines Arts, Entertainment, and Recreation (NAICS 71) with Accommodation and Food Services (NAICS 72), offering a more comprehensive view of employment associated with visitor-driven economic activity. The EIS

losses associated with reductions in domestic/municipal and industrial (M&I) water.²³⁹ This disproportionate treatment allows Reclamation to obscure the full extent of economic costs to cities like Henderson and Las Vegas, Nevada (including costs that may result from changes to bond ratings, increased borrowing costs, reductions in urban landscape/tree canopy, increased extreme urban heat, and increased rate pressure on users) by choosing not to put those costs in dollar figures similar to the losses to agriculture- and recreation-based communities. The differences are stark.²⁴⁰ In fact, available information indicates that the economic impacts associated with loss of a single acre-foot of water for domestic/M&I users in major metropolitan areas are levels of magnitude greater than the economic impacts associated with loss of an acre-foot of water on an irrigated field.²⁴¹ Reclamation should add a Clark County-specific analysis that links modeled Colorado River shortage conditions to restrictions, storage use, and cost/rate pressures, and identifies the most affected communities and sectors.

Fourth, there is zero analysis or comparison among alternatives of socioeconomic impacts to agriculture, recreation, and communities in Upper Basin states. This is an outgrowth of Reclamation's failure discussed above, to consider alternatives that include shortage sharing by the Upper Basin states and its artificial limitation of the geographic scope of impact analysis

should be revised to include employment from Accommodation and Food Services (NAICS 72) sector.

²³⁹ See *id.*, Sec. 3.16.2, at 3-175 (IMPLAN economic model considered loss of agriculture jobs and income and loss of jobs and labor income in the recreation industry), 3-177 (socioeconomic impact indicators consider changes in jobs and income for agriculture and recreation industries).

²⁴⁰ In addition to the direct losses to the Southern Nevada economy, indirect effects will also be felt by local governments as the economy constricts. The Draft EIS does not consider the potential impact of Colorado River shortages on tax revenues to support government services in Clark County, other Counties in Nevada, and the State of Nevada.

²⁴¹ Reclamation should apply existing methodologies to quantify socioeconomic impacts to domestic/M&I users. At least two metrics are available to quantify the cost of an acre-foot of water in urban communities. See White, W. T., Carroll, T. M., Schwer, R. K., *The Impact of a water-imposed interruption of growth in the Las Vegas region* (1992), available at https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1115&context=water_pubs; Hobbs, Ong & Associates, *The Impact of a Growth Interruption in Southern Nevada* (2004), available at <http://water.nv.gov/hearings/past/Spring%20Valley%202006/exhibits/SNWA/527.pdf>. While these methodologies are not without limitations, Reclamation's choice to avoid quantifying socioeconomic impacts to Clark County altogether violates NEPA's principles of informed decisionmaking.

to the river corridor at Lake Powell and below.²⁴² Comprehensive and coordinated management of the Colorado River requires commitments from all the basin states and means every community that makes use of Colorado River water will be affected, not just those below Lake Powell. The failure to even consider the socioeconomic effects on Upper Basin states is a glaring omission that reflects Reclamation's impermissibly narrow purpose and need and alternative approaches to Colorado River management.

In sum, the Draft EIS socioeconomic analysis is fundamentally inadequate because it evaluates water-shortage impacts only through agriculture, water-based recreation, and non-market values, ignoring the far broader economic, social, and equity consequences to existing municipal water users. The analysis also relies on an unsupported assumption that population growth drives increased consumptive water use when, in fact, conservation policies, not population, are the true drivers of demand. By overlooking entire sectors of the economy (including rural economies²⁴³), public-health implications, impacts on disadvantaged communities, and empirical regional data, the analysis fails to provide decisionmakers and stakeholders with an accurate or sufficient assessment of socioeconomic effects.

C. Reclamation Failed to Adequately Consider Public Health and Safety Impacts

Previous Reclamation EIS's have recognized the need to address the public health and safety concerns that inherently accompany any change to Colorado River operations.²⁴⁴ The 2023 Supplemental Draft EIS recognized that the Secretary's authority includes the reserved right to operate Reclamation facilities in a manner that is "prudent or necessary for safety of dams, **public health and safety** and other emergency situations."²⁴⁵ Yet, in the post-2026 Draft EIS, Reclamation fails to mention, much less define "public health and safety," nor identify any measure for evaluating impacts to public health and safety, or consider impacts in any detail. This omission is particularly evident in several key sections of the Draft EIS.

Reclamation fails to analyze the impacts of health and human safety in the proposed alternatives despite including operations that significantly increase the depletion of state or water users' apportionment.²⁴⁶ For example, in the Supply Driven alternative, Reclamation

²⁴² *Supra* § VI.J.

²⁴³ In Nevada, some rural customers have energy portfolios heavily dependent on Hoover energy allocations. These rural areas would be negatively impacted as elevations decline below 1,035. Economic analysis is needed to determine the impacts to rural energy customers.

²⁴⁴ 2023 Draft Supplemental EIS § 2.7, at 1.3, at 1-8.

²⁴⁵ 2023 Draft Supplemental EIS § 2.7, at 2-7–2-8 (emphasis added).

²⁴⁶ Draft EIS, Sec. 2.1, at 1-42.

includes a 96.4% (.29 maf) depletion of Nevada's apportionment but offers no analysis on the depletion's impact to the health and human safety of southern Nevada communities. Further, the shortage allocation models distribute shortages to agencies until the entitlement decreases to zero.²⁴⁷ As such, health and human safety calculations should be developed, explained, and incorporated into the shortage allocation model to realistically show the impacts of large reductions on cities.

Reclamation should have also considered how Nevada's water use is different than other states. Nevada has maximized conservation through return-flow credits, requiring the removal of decorative turf, and even banning new septic systems to enhance return-flow credits. These efforts helped Southern Nevada reduce its consumptive use by 100,000 afa, while adding over 875,000 new residents. With no significant agricultural uses, there are few if any options to further augment water supplies. With rainfall so low and temperatures so high, additional reductions to Nevada would severely impact urban forests and canopy coverage, and adversely impact the health and human safety in the communities served by SNWA. A more calculated analysis is therefore warranted and should be completed for each of the communities served by SNWA's member agencies, given the significant impacts that will occur if further reductions to Nevada's consumptive use are imposed.

The public health and safety analysis for the Draft EIS contravenes DOI NEPA guidance, which directs agencies to consider the environmental effects on "public health and safety" and the "quality of life of the American people."²⁴⁸ Reclamation should have applied human health and safety thresholds to assess the effects of proposed shortages to municipal users in Nevada and Arizona whose health and safety may be threatened by implementation of the Action Alternatives. From a water needs perspective, Reclamation could have referred to existing state materials for guidance or insight on identifying the minimum amount of water that might be necessary per person to prevent adverse impacts to human health and safety.²⁴⁹

²⁴⁷ Draft EIS, Appx. C., Sec. 5.2.1, at C-71 to C-73.

²⁴⁸ DOI NEPA Implementing Procedures, § 1.2(b)(1), at 5.

²⁴⁹ See generally Southern Nevada Health District, How much water should I store?, <https://www.southernnevadahealthdistrict.org/faq-items/how-much-water-should-i-store/> (detailing that water is the "most important supply during an emergency" and that one gallon of water per person per day should be stored in an individual's emergency supplies, with more water for children, nursing mothers, and those with health ailments); see also Nev. Admin. Code § 618 Sec. 8.2 (employers must provide employees with potable water that is "fresh, pure and cool" in an amount of one quart per hour per employee for the entire shift with limited exceptions).

Reclamation's failure to consider this available information is inconsistent with NEPA's "hard look" requirement and obligation to "make use of reliable existing data and resources."²⁵⁰

D. Reclamation Failed to Adequately Consider Impacts on Lake Powell Hydropower Generation

As indicated in detail above, the Draft EIS does not adequately address repairs to critical infrastructure associated with the Glen Canyon Dam. As such, Reclamation's impacts analysis overstates the reliability of Lake Powell's hydropower generation in low flow years. Reclamation states that the river outlet works "are not designed nor intended for long-term use at low reservoir levels" and that the hollow-jet valves still need major refurbishment.²⁵¹

Yet, Reclamation fails to analyze the associated risks in modeled releases or power generation capacity. Nor does the analysis describe operational limits to power generation, *e.g.*, how long the outlets can run before inspections, what shutdowns would be required during repairs, and how those outages would reduce dependable power during extended low-water periods. Without this logical follow-through, the interested public and decisionmakers cannot fully assess hydropower risks.

Moreover, the Western Area Power Administration ("WAPA") partnered with Argonne and produced a report entitled "Post-2026 Environmental Impact Statement Rate Analysis for the Colorado River Storage Project." The report addresses the WAPA rate impacts in the Upper Basin. In the DEIS, the report is incorporated by reference but the numerical data from that report should have been directly added into the DEIS. They do state the conclusions from the report but do not show any of the supporting analysis. It should be made clear that a direct connection exists to the rate impacts discussed in that report and the health of the Basin Fund which may not be obvious to the reader. In other words, if one or more of the alternatives creates more frequent rate increases which rely on customer willingness to pay them, that translates to risk to the Basin Fund. More importantly, an analysis of similar robustness, and using similar metrics should have been done for Hoover Dam to aid in the understanding of the tradeoff between Glen Canyon Dam and Hoover Dam.

This problem is further compounded by the fact that Reclamation expressly delays any analysis of impacts on electricity rates and reliability."²⁵² Postponing this analysis for Lake

²⁵⁰ See DOI NEPA Implementing Procedures, § 3.7, at 20.

²⁵¹ Draft EIS, Sec. 3.3.1, at 3-25

²⁵² *Id.*, Sec. 3.15.2, at 3-169 ("DMDU analysis of electricity rates and the market value of the electricity generated at Glen Canyon Dam are being developed and will be included in the Final EIS.").

Powell contravenes NEPA's goals.²⁵³ "NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment. Rather, it is designed to require such analysis as soon as it can reasonably be done."²⁵⁴ This improperly denies the public the opportunity to make its position known on potential rate issues.²⁵⁵ In short, the Draft EIS presents elevation-based robustness and vulnerability results, but fails to include in the proposed action needed reparations and stops short of translating current conditions into engineering, dam safety, maintenance, and impacts to power generation.

E. Reclamation Failed to Adequately Consider Protection of Lake Mead Infrastructure and Impacts to Hydropower Generation

The Draft EIS fails to adequately consider and put into plain language the risks to Lake Mead infrastructure and hydropower generation. As mentioned above, the Draft EIS conveys facts and figures to stakeholders and decision makers, but it lacks the necessary detail to explain the practical implications of each alternative.²⁵⁶

For Lake Mead infrastructure, the Draft EIS conveys three main points. *First*, the Draft EIS identifies critical water levels for infrastructure and hydropower (975 feet), minimum power pool (950 feet) and dead pool (895 feet).²⁵⁷ *Second*, the Draft EIS conveys how each alternative performs against those levels by discussing how alternatives keep Lake Mead above 975 feet and how often dead pool-related reductions are avoided.²⁵⁸ And *third*, the Draft EIS recognizes spillway thresholds at high lake levels.²⁵⁹

The status of infrastructure and need for repair at Hoover Dam is discussed in a manner that downplays the need for critical infrastructure repairs and the increased risks to infrastructure associated with certain alternatives (e.g., the No Action Alternative). The Draft

²⁵³ *Native Vill. of Point Hope v. Jewell*, 740 F.3d 489, 497-98 (9th Cir. 2014).

²⁵⁴ *Id.* (citation omitted).

²⁵⁵ *Half Moon Bay Fishermans' Mktg. Asso. v. Carlucci*, 857 F.2d 505, 508 (9th Cir. 1988) (disclosing information after EIS defeats NEPA's goal of encouraging public participation during the decision-making process).

²⁵⁶ *Earth Island Inst. v. U.S. Forest Serv.*, 442 F.3d 1147, 1160 (9th Cir. 2006) (An EIS "must be organized and written so as to be readily understandable by governmental decisionmakers and by interested non-professional laypersons likely to be affected by actions taken under [the EIS].") (abrogated in part on other grounds by *Winter v. NRDC, Inc.*, 555 U.S. 7 (2008)).

²⁵⁷ Draft EIS, 3.3.2, at 3-33—36.

²⁵⁸ Draft EIS, Sec. 3.3.2, at 3-36 (Fig. 3-11), 3-50 (Fig. 3-13).

²⁵⁹ Draft EIS, Tech. Appx. 15, Sec. TA 15.2.5, at 15-47.

EIS discusses that Hoover Dam's Dam Safety Priority Rating is a Category 5, "Reclamation's lowest-priority rating from dam-safety risk standpoint, indicating that the facility poses the lowest risk to the public."²⁶⁰ While there is discussion of Hoover Dam's "current condition," the focus of the discussion is a passing overview of past repairs and mention that intake towers and penstocks cannot be replaced.²⁶¹ However, there's no discussion about current or near-term future repairs. The Dam is nearly a century old and in the near future will require substantial major planning and investment over and above routine operation and maintenance. Reclamation is aware that operating the Dam below 1035 feet will drastically diminish generation since only 5 of the 17 turbines are equipped with wide head turbines to manage generation at lower lake elevations.²⁶² Operating at or below 1035 feet will force the 5 wide head turbines to operate around the clock and that then will increase the operating and maintenance needs on those units. And, as Reclamation notes at 1035 feet, "the cost of producing power exceeds its value."²⁶³ Thus, it is imperative on Reclamation to include in its preferred alternative an aggressive schedule for purchasing and installing wide head turbines on the remaining 12 units.

The Draft EIS's effects discussion relating to infrastructure covers the frequency of reservoir elevation drops at Lake Mead.²⁶⁴ For each alternative, Figure TA 15-11 discusses what percentage of futures Reclamation predicts Lake Mead elevations will be at least 950 feet. Under the No Action Alternative, only 30% of futures will meet the 950 feet elevation.²⁶⁵ Under the No Action Alternative, operating Lake Mead below minimum power pool and dead pool are likely realities, especially because the Proposed Guidelines will be effective for decades during significant climate uncertainty.

But it is unclear what wear and failure risks will be presented should low elevations last for a significant amount of time or whether certain alternatives will threaten infrastructure more than others. The Draft EIS contains no discussion of mechanical risk, cavitation, vibration, wear, thermal/oxygen shock impacts, or maintenance burdens from Hoover Dam operating at low elevations. These degradation effects are foreseeable, especially based on analogous issues

²⁶⁰ *Id.*, TA 15.1.3, at 15-5.

²⁶¹ *Id.* at 15-10.

²⁶² *Id.* at 11-12.

²⁶³ *Id.* at 11.

²⁶⁴ Draft EIS, Sec. 3.15.2, at 3-165.

²⁶⁵ Draft EIS, Tech. Appx. 15, 15.2.3, at 15-23.

described for Glen Canyon, and Hoover Dam's "critical aging infrastructure."²⁶⁶ And until Hoover Dam upgrades are fully implemented as Congressionally directed under the Energy and Water Development Appropriations Act of 2026, structural degradation risks will persist. It is unclear whether Hoover Dam infrastructure will deteriorate more under the No Action Alternative than other alternatives (although this is presumably so). The Draft EIS provides no analysis of whether Hoover Dam's operations under long-duration sub-950 or sub-1,035 feet conditions would result in increased wear, unplanned outage risk, or added O&M burden on ratepayers.

And the Draft EIS does not translate this outcome into its other realities— that sustained sub-950 feet elevation or approaching dead pool or sub-1035 feet would severely constrain Hoover Dam releases and hydropower. The Draft EIS does not assess the practical duration and feasibility of meeting Lower Basin municipal and agricultural deliveries under those conditions or the secondary socioeconomic impacts.

Further, just as Reclamation failed to analyze risks to hydropower generation from Glen Canyon Dam associated with the various alternatives, Reclamation fails to consider impacts to loss of hydropower and ratepayer increases from Lake Mead, which is particularly concerning since, as provided above, Reclamation is aware that at 1035', a significant amount of Hoover Dam's hydropower generation is lost without the replacement of wide head turbines on the other 12 units. Yet, the Draft EIS acknowledges without analysis that "[i]mpacts on electricity rates and the market value of the electricity generated by Hoover Dam are being developed and will be included in the Final EIS."²⁶⁷ Similarly, the corresponding Technical Appendix reviews only how "changes in firm capacity and energy generation impact the electricity rates and the market value of electricity" at Glen Canyon Dam.²⁶⁸ As more fully discussed above, postponing NEPA analysis of foreseeable impacts to Hoover Dam until the last minute violates NEPA, and denies stakeholders the opportunity to meaningfully engage in Reclamation's analysis.

F. Reclamation Failed to Adequately Consider Impacts to Cultural and Tribal Resources

The Draft EIS discussions of cultural and tribal resource impacts are devoid of any analysis of the real-world effects of changing river flows and lake levels on cultural resources

²⁶⁶ Statement of Deputy Commissioner David Palumbo, H.R. 7776, the Help Hoover Dam Act, before the House Committee on Natural Resources, Water, Wildlife, and Fisheries Subcommittee (May 22, 2024).

²⁶⁷ Draft EIS, Sec. 3.15.2, at 3-169.

²⁶⁸ Draft EIS, Appx. 15, Sec. TA 15.2.7, at 15-54.

and important tribal practices. The primary focus of both discussions is on the number of sites (based on modeled assumptions) that will be either inundated or exposed under the various River management alternatives.²⁶⁹ The presumption is that inundated sites are better preserved and thus, consistent and higher water levels have less impact to cultural and tribal resources. Thus, the analysis focuses almost exclusively on a detailed textual summary of the modeling results focusing on the number of sites that will be exposed or inundated under various alternatives.

This analysis overlooks an important aspect of the problem in violation of NEPA's "hard look" requirement. Cultural resources and historic sites are not eligible for protection solely because of the physical preservation of artifacts or materials at the site, but also when they possess integrity of location, design, setting, materials, workmanship, feeling, and association, and are associated with events that have made a significant contribution to the broad patterns of our history, are associated with the lives of persons significant in our past, or embody a distinctive characteristic or type, period, or method of construction.²⁷⁰ This includes properties "of traditional religious and cultural importance to an Indian tribe," which are also eligible for protection.²⁷¹ In other words, impacts to cultural resources are more than just impacts to objects and things. Impacts to cultural resources, and particularly to tribal resources, are impacts to experiences—i.e., the opportunity to experience a place with the integrity of location, setting, and feeling that made it eligible for protection in the first place. For a tribal cultural property, the place may be associated with cultural practices, beliefs, and traditions important to maintaining cultural identity and essential to current cultural experiences that have far more to do with setting than preservation of artifacts.

The Draft EIS focuses almost exclusively on physical impacts to archeological resources.²⁷² The Draft EIS does not include any discussion that captures either quantitatively or qualitatively the potential effects to individuals and communities, and critically to tribes, that may value a site based primarily on its setting or atmosphere and important for its continuing relevance to traditional practices, beliefs, and traditions. This absence is glaringly apparent in relation to the Grand Canyon, which itself is considered by numerous tribes as a traditional cultural property.²⁷³ Yet there is no discussion of cultural experiences of the Canyon, whether

²⁶⁹ See Draft EIS, Sec. 3.11.2, at 3-123 (cultural resource analysis summarizing "the potential for archeological resources to be exposed").

²⁷⁰ 36 C.F.R. § 60.4 (2025).

²⁷¹ 54 U.S.C. § 302706(a).

²⁷² See Draft EIS, Sec. 3.11.2, at 3-122 (making assumptions about the limits of physical impacts), at 3-128 (limiting analysis of river flows to physical impacts on archeological sites based primarily on aeolian sand modeling).

²⁷³ *Id.*, Sec. 3.13.1, at 3-143.

tribal or otherwise, and how those are affected by Colorado River management. Is the culturally significant experience of the Grand Canyon or sites within the Canyon affected by water levels, and if so, how do the alternatives fare in protecting that experience? The Draft EIS does not say.

Another example is the analysis of impacts to natural resources of important to Native peoples, including vegetation. The Draft EIS assumes that the best alternative is the one that maintains historic vegetation patterns, and the remainder of the discussion summarizes the effects to vegetation from Chapter 3.9.²⁷⁴ It concludes that under all alternatives, “the first decade is expected to have greater variability and reduced woody riparian habitats, compared with historic conditions,” and that conditions “improve in the second and third decades.”²⁷⁵ But what vegetations are important to tribal practices and what does reduced woody riparian habitat mean for tribal cultural experiences that may be dependent on native vegetation? Again, the Draft EIS does not say.

Overall, Reclamation’s focus on inundation of archeological sites paints too narrow a picture of cultural and tribal resource impacts. Cultural and tribal resources are more than archeological sites—they encompass sites that are made significant by their integrity of place, location, and setting and their connection to history and tradition. In some cases, those sites support contemporary practices of living cultures that help maintain connections to tradition. The failure to discuss impacts to these sites and practices violates NEPA’s “hard look” requirement.

X. Reclamation Failed to Designate States and Local Governments as Cooperating Agencies, and Solicit Feedback on Issues Within Their Jurisdiction or Areas of Expertise

An agency should request the participation of cooperating agencies to assist with the analysis when preparing a NEPA document. A cooperating agency is a federal, state, tribal, or local agency “that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal.”²⁷⁶ The federal agency “shall” “request the participation of each cooperating agency at the earliest practicable time” and “give consideration to any analysis or proposal created by a cooperating agency.”²⁷⁷

Despite NEPA’s focus on public disclosure and participation by interested stakeholders here, Reclamation failed to invite the participation of state, regional, or local Nevada stakeholders as cooperating agencies. SNWA and CRCNV have significant technical expertise in

²⁷⁴ *Id.*, Sec. 3.13.2, at 3-148.

²⁷⁵ *Id.*

²⁷⁶ NEPA § 107(a)(3), 42 U.S.C. § 4336a(a)(3).

²⁷⁷ *Id.* § 4336a(a)(2).

the environmental effects of Colorado River management on Nevada's resources, and a deep understanding of the importance of Nevada's Colorado River apportionment to the economic stability of not only Clark County, but surrounding communities in Nevada. Reclamation did not avail itself of this information and participation.

In addition to NEPA, Section 602(a) of the Colorado River Basin Project Act of 1968²⁷⁸ requires the Secretary to "propose criteria for the coordinated long-range operation of" Federal reservoirs in the Colorado River Basin (i.e., criteria referred to as Long-Range Operating Criteria or LROC) and Reclamation acknowledges that determinations of annual water release volumes from Glen Canyon Dam pursuant to the LROC are currently implemented through the 2007 Interim Guidelines.²⁷⁹ Through the contemplated actions in the Draft EIS, the Secretary is proposing to modify how the LROC are implemented but the Secretary may modify the LROC "only after correspondence with the Governors of the seven Colorado River Basin States and appropriate consultation with such State representatives as each Governor may designate."²⁸⁰ This required consultation has not been completed, and must be conducted before Reclamation can issue a Decision that will modify how the LROC are implemented.

Further, the 2007 Interim Guidelines Record of Decision ("ROD") states that the "Secretary shall first consult with all the Basin States before making any substantive modification to these Guidelines" and "upon a request to resolve any claim or controversy arising under these Guidelines ... the Secretary shall invite the Governors of all the Basin States, or their designated representatives...to consult with the Secretary in an attempt to resolve such claim or controversy by mutual agreement."²⁸¹ Consultation amounts to more than just providing an opportunity to comment along with the general public.²⁸² This required consultation has not been completed, and must be conducted before Reclamation can issue a Decision that will modify how the 2007 Interim Guidelines are implemented.

In sum, Reclamation failed to designate state and local governments with expertise as cooperating agencies under NEPA, or to consult with the Colorado River Basin Project Act, and

²⁷⁸ Pub. L. 90-537, 82 Stat. 885 (Sep. 30, 1968) (codified at 43 U.S.C. §§ 1501-1556).

²⁷⁹ See Glen Canyon Dam Long-Term Experimental and Management Plan Record of Decision, at 1.

²⁸⁰ CRBPA § 602(b), Pub. L. 90-537, 82 Stat. 900) (codified at 43 U.S.C. § 1552(b)).

²⁸¹ Record of Decision, Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (Dec. 2007) at 54, available at <https://www.usbr.gov/lc/region/programs/strategies/RecordofDecision.pdf>.

²⁸² *California Wilderness Coal. v. U.S. Dep't of Energy*, 631 F.3d 1072, 1086–90 (9th Cir. 2011) (vacating agency decision where agency failed to engage in "consultation" with the States; merely providing a notice and comment period was insufficient).

its own 2007 Interim Guidelines. Nevada should be invited to participate as a cooperating agency in the NEPA process moving forward, and formal consultation under the Act and 2007 Interim Guidelines must occur before a final decision.

CONCLUSION

Nevada appreciates the opportunity to provide these comments on the Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead Draft EIS. We have a particular interest in avoiding potential impacts from the proposal to Southern Nevada while supporting successful approaches to Colorado River management. Nevertheless, as set out above, Reclamation's Draft EIS fails to comply with the full scope of the agency's NEPA obligations and warrants a draft supplemental EIS given that the many Draft EIS shortcomings undermine NEPA's twin goals of informed decision-making and informed public participation.

Furthermore, Reclamation's Draft EIS has not made sufficient information available for the public, stakeholders, the Basin States, and others to adequately comment on the proposed action. Of particular concern, Reclamation failed to provide information and documentation regarding its plan to remedy the critical infrastructure deficiency at Glen Canyon Dam. For that reason, we prepared and submitted a Freedom of Information Act ("FOIA") request to obtain the needed information given its importance to long-term sustainable operation of the reservoirs and management of Colorado River.²⁸³

Accordingly, we request that Reclamation consider and incorporate the above comments into a draft supplemental EIS and recirculate that updated analysis for public and stakeholder comment as soon as possible. Specifically, at a minimum, the updated analysis should:

- Carry forward in the alternatives analysis full consideration of the Lower Basin Alternative;
- Include full consideration of the attached Nevada Proposed Approach to Short- and Long-term Operations;
- Include full consideration of alternatives and impacts relating to reparation of the Glen Canyon Dam river outlet works; and
- Include in all future analyses Reclamation's planned compliance with the Law of the River.

Should there be any questions or concerns regarding this letter, please contact John Entsminger at your earliest convenience. Thank you for your consideration of these comments.

²⁸³ See FOIA Request to Reclamation (Feb. 23, 2026).



STATE OF NEVADA



COLORADO RIVER COMMISSION
OF NEVADA

August 12, 2026

Via email
c/o crbpost2026@usbr.gov

Bureau of Reclamation
ATTN: Ms. Carly Jerla
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Re: State of Nevada's Comments on the Shortage Allocation Model Set Forth in the Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead Final Draft Environmental Impact Statement

Dear Bureau of Reclamation and Ms. Jerla:

Thank you for the opportunity to provide comments on the Shortage Allocation Model set forth in the "Colorado River Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead Final Draft Environmental Impact Statement" ("FEIS"), issued and made available on July 31, 2026. *See* 91 Fed. Reg. 48,385 (Jul. 31, 2026). This letter submitted on behalf of the State of Nevada and the Southern Nevada Water Authority (collectively, "Nevada") responds to requests by the Bureau of Reclamation ("Reclamation") to further clarify why Reclamation's Shortage Allocation Model and its application in the preferred alternative, fails to comply with the collection of laws governing operations of the Colorado River known as the "Law of the River." While we are still evaluating the FEIS and reserve our rights relating to all FEIS provisions, we provide these specific comments in response to Reclamation's request so that Nevada's position on the matter can be more fully evaluated by Reclamation in connection with any forthcoming decisions, including the Record of Decision and Operating Guidelines for 2027 and 2028, and beyond.

The Lower Division States ("LDS") provided Reclamation with a detailed alternative that better meets the purpose and need of the proposed action and fully complies with the Law of the River. Indeed, our comments on the DEIS provided Reclamation with numerous examples of non-compliance with the Law of the River reflected in Reclamation's approach that would have been remedied by the LDS alternative approach. Rather than fully considering and adopting the LDS

alternative approach, however, the FEIS claims that “[t]he Lower Division States’ proposal for distributing shortages up to 1.5 maf on May 1, 2026, was incorporated in the Representative Preferred Alternative for 2027 and 2028, as described in Chapter 2.” FEIS at 3-52.

The LDS shortage distribution proposal, however, was but one part of a comprehensive package designed to work together with appropriate Upper Basin actions, use of the Upper Initial Units according to existing Federal authority, a Powell release curve that better reflected the health of the system, and storage flexibility necessary to generate additional conservation in the Lower Basin. The Lower Division States expressly cautioned, “This proposal is an integrated, non-severable package” and specified that “components are not independent and should not be evaluated or modified in isolation.” Aside from our concern with Reclamation’s attempt to incorporate non-severable elements of the LDS alternative into the proposed action, below Nevada provides another example of non-compliance with the Law of the River in connection with the proposed Shortage Allocation Model and its application in the preferred alternative.

Specifically, Tables 2-3 and 2-4 and Appendix C to the FEIS each, in whole or in part, purport to identify the shortages Reclamation believes it is authorized to impose on Nevada in the absence of a Lower Division States agreement – all without any meaningful analysis of the acute environmental, socio-economic, and health and human safety impacts that would be directly caused by the magnitude of such shortages. The FEIS would have Nevada accounting for 7.12% of any Lower Division State shortage above 1.5 maf in 2027 and 2028, or 5.93% of any Lower Basin shortage when Mexico participates in proportion to its 1944 Treaty entitlement (16.67%). To put that in perspective, when the shortage in the Lower Basin (including Mexico) is 3,240,000 acre-feet, the FEIS would have Nevada taking a shortage of 192,200 acre-feet, which constitutes approximately 64% of Nevada’s Colorado River entitlement. See Appendix C, at C-22, Table C-6. Nevada has been the single most-proactive state on the River in terms of planning for lower River flows and implementing common-sense water conservation to reduce use. Cuts of this magnitude would affect quality of life and potentially harm the health, human safety, and welfare of this community.

This is a profound departure from several prior federal NEPA processes, interstate agreements with Arizona and California, and Federal legislation compelling Secretarial and Lower Division State action as part of the 2019 DCP in which Nevada has regularly assumed responsibility for approximately 4% of any Lower Division State shortage (or 3.33% if Mexico is assumed to take 16.67% of the Lower Basin shortage volume). It is based on the percentages of water apportioned to each Lower Division State by the Secretary of the Interior under the Boulder Canyon Project Act noted in the table below:

Table 1: Allocations of Colorado River Water to Arizona, California, and Nevada

State	Allocation	Percentage of Lower Division State Allocation	Percentage of Lower Basin Allocation (Including Mexican Entitlement)
Arizona	2,800,000	37.33%	31.11%
California	4,400,000	58.67%	48.89%
Nevada	300,000	4%	3.33%

Reclamation has twice previously analyzed the impacts of shortage on Lower Division States water users, i.e., in the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (“Interim Guidelines”) and in the 2024 Draft Environmental Impact Statement for Near-term Colorado River Operations (“2024 DEIS”) in a manner materially consistent with Table 1. In the Interim Guidelines, Arizona and Nevada shared shortages as follows:

Table 2: Shortages to Arizona and Nevada under the Interim Guidelines

Lake Mead Elevation	1,075-1,050	>1,050-1,025	>1,025
Arizona Shortage (acre-foot)	320,000	400,000	480,000
Nevada Shortage (acre-foot)	13,000	17,000	20,000
Arizona Shortage (percent shortage)	96.1%	95.9%	96.0%
Nevada Shortage (percent shortage)	3.9%	4.1%	4.0%

This was a voluntary arrangement both states were willing to support as representative shortage volumes going forward and remains uncontested through operations to date.

In 2019, by contractual agreement and consistent with congressional direction to the Secretary in the Colorado River Drought Contingency Plan Authorization Act of 2019, Reclamation began operating the River in accordance with the 2019 Drought Contingency Plan. Importantly, this plan used shortage volumes identical to the Interim Guidelines and added additional measures to reduce water use that were not considered shortages.

In the 2024 DEIS, Reclamation analyzed two shortage allocation schemes in its shortage allocation model. Ultimately, the adopted framework in the FEIS did not necessitate new shortages. However, the DEIS shortage allocation model provides an important reference point for the reliance Nevada has built on a 4% reduction. The DEIS had action alternative 1 that was consistent with the 4% approach. This alternative was described as the “Action Alternative 1 Shortage Allocation model.” In addition, Reclamation modeled “Alternative Approach to Action Alternative 1 Shortage Allocation Model.” These two models will be referred to as the “action model” and “alternative model,” respectively. The action model was described as not satisfying all present perfected rights so an alternative model was developed. The alternative model, however, was flawed because it reallocated all levels of shortage even when present perfected rights are not affected. The shortage distributions of both models are presented below:

Table 3: 2024 Draft SEIS Action Alternative 1 SAM (Action Model)

	Stage 1	Stage 2	Stage 3
Total Lower Basin Shortage Range* (af)	0 – 2,088,702	2,088,702 – 4,800,000	N/A
Max. AZ Shortage (af)	1,670,962 (80.00%)	2,113,883 (44.00%)	N/A
Max. CA Shortage (af)	0 (0.00%)	1,726,117 (36.00%)	N/A
Max. NV Shortage (af)	69,623 (3.33%)	160,000 (3.33%)	N/A
Max. MX Shortage (af)	348,117 (16.67%)	800,000 (16.67%)	N/A

*Assuming MX shares in shortages at 16.67%

Table 4: 2024 Draft SEIS Alternative Approach to Action Alternative 1 SAM (Alternative Model)

	Stage 1	Stage 2	Stage 3
Total Lower Basin Shortage Range (af)	0 – 2,153,472	2,153,472 – 5,075,432	N/A (SAM ended at point where PPRs would be reduced)
Max. AZ Shortage (af)	1,670,962 (77.59%)	2,232,501 (43.98%)	N/A (SAM ended at point where PPRs would be reduced)
Max. CA Shortage (af)	0 (0.00%)	1,705,724 (33.61%)	N/A (SAM ended at point where PPRs would be reduced)
Max. NV Shortage (af)	123,598 (5.74%)	291,303 (5.74%)	N/A (SAM ended at point where PPRs would be reduced)
Max. MX Shortage (af)	358,912 (16.67%)	845,905 (16.67%)	N/A (SAM ended at point where PPRs would be reduced)

*Assuming MX shares in shortages at 16.67%

Fundamentally, the logic Reclamation used in the 2024 DEIS asserts that shortages are shared in accordance with Table 1 and Table 2, unless a present perfected right is affected, at which point

the entire shortage sharing percentage is recalculated for any volume. The Post-2026 FEIS carries forward the same flawed logic as 2024 DEIS alternative model and in the reductions set forth in the table below:

Table 5: Post-2026 FEIS representation of Table 2-4 and Appendix C

	Stage 1	Stage 2	Stage 3
Total Lower Basin Shortage Range (af)	0 – 1,814,093	1,814,093 – 4,910,598	4,910,598 – 9,000,000
Max. AZ Shortage (af)	1,404,130 (77.40%)	2,202,189 (44.85%)	2,800,000 (31.11%)
Max. CA Shortage (af)	0 (0.00%)	1,598,674 (32.56%)	4,400,000 (48.89%)
Max. NV Shortage (af)	107,614 (5.93%)	291,302 (5.93%)	300,000 (3.33%)
Max. MX Shortage (af)	302,349 (16.67%)	818,433 (16.67%)	1,500,000 (16.67%)

Article II(B)3 of the Supreme Court’s 2006 Consolidated Decree in Arizona vs. California provides that when there is insufficient water to deliver 7.5 maf to the Lower Division States the Secretary, “after providing for satisfaction of present perfected rights [PPRs] in the order of their priority dates without regard to state lines . . . may apportion the amount remaining available for consumptive use in such manner as is consistent with the Boulder Canyon Project Act. . . .” Reductions during shortage as have historically been agreed, implemented, and described above are entirely consistent with, and based on the percentages of, a State’s Boulder Canyon Project Act entitlement.

Based on the percentages in Table 1, for example, Nevada’s portion of a 3,240,000 acre-foot shortage in the Lower Basin would be 108,000 acre-feet, not the 192,200 acre-feet contemplated in the FEIS. Because Nevada’s total apportionment is a comparatively small 300,000 acre-feet (3.3% of the Lower Division State entitlements), and the Colorado River represents 90% of the water supply for Las Vegas and Southern Nevada, the FEIS’s novel treatment of Nevada entitlement significantly departs from historical practice and prior interpretation and should be fully explained in the FEIS and firmly rooted in the Law of the River. What limited explanation appears in the FEIS reveals a significant misapplication of the Law of the River.

Furthermore, we have learned through subsequent discussions with Reclamation regarding its application of Appendix C that the reason for increasing Nevada's shortage from 3.33% to 5.93% is that Reclamation designed the model to avoid shorting present perfected rights holders (PPRs) and did so by not treating state apportionments by the Secretary pursuant to the Boulder Canyon Project Act as co-equal. Instead, Reclamation treats only the non-present perfected rights from each state as co-equal, causing Nevada's relative percentage of shortage contributions to rise dramatically merely because Nevada has a lower proportion of PPRs. The mathematical exercise flips Nevada's contractual rights to water on its head and leads to the absurd result that even if all PPRs in the basin are fully satisfied, Nevada must absorb a higher percentage of shortage than its basic apportionment and historical shortage percentage. Such a result violates the Law of the River because Arizona, California, and Nevada have co-equal rights to their respective apportionments made by contract pursuant to the Boulder Canyon Project Act, subject only to the Decree's requirement that PPRs get their full entitlement.

The flaw is made clear by further evaluation of the hypothetical Lower Basin shortage of 3,240,000 discussed above. For a shortage of 3,240,000, the shortage distributions pursuant to the FEIS model on the one hand, and the Decree and Boulder Canyon Project Act apportionments on the other are shown in Table 7, below:

Table 7: Comparison of FEIS Shortages vs. Historical at 3,240,000 acre-feet

	Non-PPR Water (af)	FEIS Shortage (Appendix C)	Entitlement Proportion	Shortage Based on Entitlement Proportion
AZ	2,201,189	1,771,627	31.11%	1,008,000
CA	1,598,674	736,172	48.89%	1,584,000
NV	291,302	192,200	3.33%	108,000
MX	N/A	540,000	16.67%	540,000
Total	4,092,165	3,239,999	100%	3,240,000

Table 7 readily demonstrates the legal flaw inherent in treating state basic apportionments as other than co-equal. **At a shortage of 3,240,000 acre-feet, no PPR is impacted.** Reductions of that magnitude would come closest to impacting California PPRs, but there remains 14,674 acre-feet of non-PPR water in California even at that level of shortage. In fact, using shortages "consistent with the Boulder Canyon Project Act" contract apportionments and the Decree, no Lower Basin PPR would be impacted until there is a Lower Basin shortage of 3,270,015 acre-feet. At shortages exceeding 3,270,015 acre-feet, to satisfy the Decree, California PPRs would need to be satisfied by proportionate reductions in Arizona and Nevada until such time as the non-PPR entitlements in Arizona are impacted, after which Nevada's non-PPR entitlement would be exhausted to ensure Arizona PPRs are not impacted, after which PPRs in all three states would be reduced according to their relative priority without regard to state lines. There is nothing in the Decree or Boulder Canyon Project Act suggesting otherwise.

We further understand, based on information obtained after issuance of the FEIS, the actual basis for Reclamation's departure from substantial historical practice and settled expectations: the FEIS's redistribution of shortage allocations was done because Arizona PPRs would be impacted by lesser shortages than 3,270,015 as a result of provisions in the Colorado River Basin Project Act of 1968 ("CRBPA") that shift California's shortage burden to the Central Arizona Project. While it may be true that Arizona PPRs would incur shortages earlier as a result of the CRBPA, as a matter of law, that shift cannot impact Nevada's shortage apportionment under any circumstance.

In relevant part, the CRBPA provides:

Article II (B) (3) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340) shall be so administered that in any year in which, as determined by the Secretary, there is insufficient main stream Colorado River water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada, diversions from the main stream for the Central Arizona Project shall be so limited as to assure the availability of water in quantities sufficient to provide for the aggregate annual consumptive use by holders of present perfected rights, by other users in the State of California served under existing contracts with the United States by diversion works heretofore constructed, and by other existing Federal reservations in that State, of four million four hundred thousand acre-feet of mainstream water, and by users of the same character in Arizona and Nevada. **Water users in the State of Nevada shall not be required to bear shortages in any proportion greater than would have been imposed in the absence of this subsection 301(b).** This subsection shall not affect the relative priorities, among themselves, of water users in Arizona, Nevada, and California which are senior to diversions for the Central Arizona Project, or amend any provisions of said decree.

CRBPA § 301(b), 43 U.S.C. § 1521(b) (emphases added). Based on the above, the approach taken in the preferred alternative to allocate shortages, as described in the FEIS, violates CRBPA because Nevada has been allocated shortages exceeding those consistent with BCPA contract apportionments and the Decree.

Reclamation's legal error is not confined to Appendix C but renders inaccurate FEIS Table 2-3 (2027–2028, Shortage Distribution, Representative Preferred Alternative) and FEIS Table 2-4 (2029–2060, Shortage Distribution, Representative Preferred Alternative), the description of the preferred alternative, and the FEIS analysis of alternatives and effects that rely on these calculations. As noted above, the FEIS analysis of impacts fails to meaningfully evaluate the specific socio-economic and other impacts on the State of Nevada and its citizens resulting from application of the Shortage Allocation Model and its failure to adhere to the restriction set forth in CRBPA § 301(b).

These comments are based on our preliminary analysis of the FEIS in an effort to ensure compliance with NEPA and the Law of the River. In that regard, Nevada again requests that Reclamation collaborate more expansively with Nevada and the Lower Division States to ensure that the analysis contained in the environmental impact statement, and in the decisions contained

in the future ROD which must rely on accurate and legally sufficient analysis contained in the EIS, fully comply with NEPA and the Law of the River.

Sincerely,



John J. Entsminger
Governor's Representative
State of Nevada
Southern Nevada Water Authority



Eric P. Witkoski
Executive Director
Colorado River Commission of Nevada

cc:

Dr. Andrea Travnicek, Assistant Secretary of the U.S. Department of the Interior
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David Palumbo, Deputy Commissioner, Operations, Bureau of Reclamation

J.B. Hamby, Governor's Representative, State of California

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Record of Decision

Decision Framework for Colorado River Guidelines: Coordinated Operations of Lake Powell and Lake Mead (2027–2036)

August 2026

Recommending Official:

08-21-2026

David M. Palumbo

Date

Deputy Commissioner, Operations, Bureau of Reclamation

Approved:

August 21st, 2026

Doug Burgum
Secretary of the Interior

Date

Record of Decision

Decision Framework for Colorado River Guidelines: Coordinated Operations of Lake Powell and Lake Mead (2027–2036)

Final Environmental Impact Statement (July 2026)

1. Introduction

For the past 26 years, the Colorado River Basin (Basin) has been experiencing an unprecedented multidecadal drought, resulting in historically low runoff and reservoir levels. During 2026, hydrologic conditions in the Basin have worsened, partially a result of the lowest observed snowpack on record during the winter of 2025–2026. The combined contents of Lake Powell (behind Glen Canyon Dam) and Lake Mead (behind Hoover Dam) have not been this low since before Lake Powell began filling, after the closure of the gates at Glen Canyon Dam in 1963.

Furthermore, current low Basin reservoir conditions, particularly at Lake Powell, have highlighted risks that could compromise the reliability and operational flexibility of Glen Canyon Dam that would affect the future ability to meet critical downstream water supply needs. Since 2021, Colorado River operations have included a series of extraordinary operations designed to protect the infrastructure at Glen Canyon Dam and support continued reliable operations. This has been a coordinated and successful effort to date to keep Lake Powell above the critical elevation of 3,490 feet. Despite these measures, due to the continued prolonged drought and water demands, the risk to the Colorado River System has never been greater.

After a 2020 review of the preceding two decades of operations of Glen Canyon Dam and Hoover Dam and recognizing that several of the major reservoir and water management documents and agreements that guide Colorado River operations expire in 2026, the Department of the Interior (Department) began engaging the public to develop new operating guidelines that recognize the need to reduce water use in the Basin while protecting water delivery systems. Critical to this process, the Department and the Bureau of Reclamation (Reclamation) engaged extensively with the Basin States, Basin Tribes, and other interested parties in pursuit of consensus-based long-term operating guidelines. Unfortunately, as of the publication of this Record of Decision (ROD), consensus on long-term operations has not been reached. Given the extraordinary importance of the Colorado River, the Secretary of the Interior (Secretary), for the first time in modern history, convened all seven Colorado River Governors multiple times to facilitate a common, consensus-based operational approach to the worsening conditions in the Basin. Despite these efforts, the seven Basin States were unable to reach an agreement. Nevertheless, new operations must begin October 1, 2026.

The absence of a Basin consensus on water management strategies coupled with the ever-increasing hydrologic risk highlights the importance of the Secretary's operational responsibilities under applicable Federal law to coordinate operations of Colorado River facilities so that these facilities meet their congressionally authorized purposes over the long term.

The Secretary has the statutory responsibility and authority to make decisions about Colorado River operations that are based on actual hydrologic conditions, that consider conditions across the Basin as a whole, and that use flexible and responsive water management tools to protect operations at mainstem facilities, avoid operational risks to infrastructure at Glen Canyon Dam, meet tribal trust responsibilities and obligations to Mexico, and manage risks to the urban, agricultural, and natural systems that rely on the Colorado River. These responsibilities are particularly profound with reservoirs at historic low levels and declining river runoff anticipated to continue or potentially worsen.

It is against this backdrop of hydrologic risk and lack of consensus among the seven Basin States that this ROD adopts the Decision Framework for Colorado River Guidelines: Coordinated Operations of Lake Powell and Lake Mead (2027–2036) (Decision Framework). This Decision Framework, as identified in the Preferred Alternative from the Final Environmental Impact Statement (EIS), establishes an adaptive decision framework that will be used to develop operating guidelines that are designed to ensure reliable operations while being able to respond to changing conditions over a 10-year period (2027–2036). The Secretary retains full legal authority to ensure ongoing operations of Colorado River facilities, including operational actions taken to address extraordinary circumstances to ensure protection of critical Federal infrastructure and continuous operational reliability of such facilities.

The Decision Framework establishes a broad operational range that provides the flexibility to develop specific operating guidelines within the 10-year period while preserving the opportunity for Basin negotiations to continue and, if successful, be incorporated in future operations. In addition, operational sideboards include enhanced coordinated reservoir operations and expanded storage and delivery of conserved system and non-system water opportunities that consist of new Intentionally Created Surplus (ICS)-type programs, conservation pools and exchange mechanisms.

The need for a flexible adaptive framework is clear given the history of the Basin since 2000. As reservoir elevations continued to fall and risk continued to increase, a series of interdependent agreements involving local, State, Tribal and Federal governments, water users and non-governmental organizations in both the United States and United Mexican States (Mexico) have enabled the system to operate by negotiated agreement rather than court determinations.

Maintaining the ability to negotiate and implement a consensus-based alternative remains a priority because a consensus-based solution is the most reliable way to ensure that operations balance the differing and often competing needs across the entire Basin. This is particularly true as poor hydrology and reduced reservoir storage exacerbate longstanding disputes among Colorado River water users.

2. Decision

The decision is the approval of the following Federal action: the adoption of the 2027–2036 Decision Framework, as provided in **Section 10**, that establishes the operational principles, sideboards (ranges for operational elements) and a process to govern development and issuance of Operating Guidelines for the coordinated operations of Lake Powell and Lake Mead. The Operating Guidelines are anticipated to be issued for 2-year intervals, unless the Secretary determines a different number of years is appropriate. The Secretary will issue each set of Operating Guidelines, subject to applicable environmental compliance, as a final agency action.

The Decision Framework provides a flexible, adaptive approach to management and is designed to support the periodic development of operating guidelines that are responsive to actual hydrologic conditions and other relevant considerations. In doing so, the Decision Framework facilitates operational decisions that consider the Colorado River System as an integrated whole, utilizes flexible operational and water management tools and protects critical Federal infrastructure while maintaining reliable operation of the Colorado River System.

The Decision Framework is based upon the Preferred Alternative analyzed in the Final EIS, and incorporates cooperating agency, Basin States, Basin Tribes, and stakeholder input, described below in **Section 6**. **The assumptions developed to analyze the Preferred Alternative do not limit future agreements, nor do they preclude or predetermine other legally permissible applications of law or Secretarial authorities in particular operations.** Specific operations would be identified through the Operating Guidelines developed pursuant to the Decision Framework as described in **Section 10**.

The Department intends to implement the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Long-Range Operating Criteria or LROC) through the Operating Guidelines issued pursuant to the Decision Framework and through the issuance of the Annual Operating Plan for Colorado River Reservoirs (AOP). The Operating Guidelines may also provide for temporary operational actions that are not otherwise provided for under the LROC when necessary to protect critical federal infrastructure during extraordinary circumstances, consistent with applicable Federal law. Such actions are intended to be temporary, shall be limited to the extent necessary to address the extraordinary circumstances, and shall not modify the Decision Framework or establish precedent for subsequent Operating Guidelines. The Secretary retains full legal authority to ensure ongoing operations of Colorado River facilities, including operational actions taken to address extraordinary circumstances to ensure protection of critical Federal infrastructure and continuous operational reliability of such facilities. The Decision Framework shall remain in effect through operating year 2036 unless superseded by subsequent Federal action.

The Decision Framework establishes a process to determine Operating Guidelines for the coordinated operations of Lake Powell and Lake Mead that will:

1. Identify circumstances under which the Secretary will determine the annual amount of water available for consumptive use from Lake Mead to the Lower Division States (Arizona, California, and Nevada) for Normal (7.5 million acre-feet (maf)), Surplus (above 7.5 maf) or Shortage (below 7.5 maf) Conditions pursuant to the Supreme Court Decree in *Arizona v. California*, 376 U.S. 340 (1964) (Consolidated Decree entered in 2006).

2. Determine the approach to the coordinated operations of Lake Powell and Lake Mead, particularly under low reservoir conditions.
3. Address potential mechanisms for the storage and delivery of conserved water in Lake Mead and/or Lake Powell to increase the flexibility to meet water use needs from both reservoirs, including the storage and delivery of non-system water; exchanges; and water conserved through extraordinary measures by or for Tribal, agricultural, or municipal entities, as appropriate based on the level of Basin consensus.

In carrying out the Decision Framework, the Department will continue to coordinate the operation of Lake Powell, Lake Mead, and the Colorado River Storage Project (CRSP) Upper Initial Units – specific reservoirs above Lake Powell – pursuant to Section 602 of the Colorado River Basin Project Act of 1968 (CRBPA). Consistent with each facility’s existing ROD, the CRSP Upper Initial Units remain an operational tool available to the Secretary, when necessary, to release additional water to increase the elevation at Lake Powell to protect critical Federal infrastructure. Consistent with assumptions and analysis in the Final EIS, the Department intends that operations are consistent with each facility’s existing ROD.

The Decision Framework is clear in its emphasis on prioritizing consensus agreements, voluntary actions, and a commitment to consultation throughout the period of adoption. Each set of Operating Guidelines will be developed pursuant to the Decision Framework in consultation with the seven Basin States and Basin Tribes, and other affected parties as appropriate, consistent with applicable federal law. When developing Operating Guidelines, the Department will take into consideration any consensus recommendations, or any other relevant information made available to the Secretary. Reclamation will provide the opportunity to submit comments on draft Operating Guidelines.

Before adopting Operating Guidelines, the Department will determine the applicable environmental compliance needed for their implementation. To the extent that the Operating Guidelines fall outside the range of operational approaches and environmental impacts programmatically considered and analyzed in the Preferred Alternative, the Department will conduct any necessary NEPA analysis in compliance with applicable federal law.

At the time of this ROD, the seven Basin States have not reached a consensus on an operational approach to the coordinated operations of Lake Powell and Lake Mead, and the Lower Division States are developing but have not yet reached agreement on several matters related to the operations of Lake Mead. These matters include provisions governing the continued storage and delivery of conserved and non-system water in Lake Mead and the volume or distribution of future shortages. To preserve flexibility for ongoing discussions and future agreements, and to continue support for the development of innovative and flexible water management tools across the Basin, the Decision Framework establishes broad operational sideboards for these elements but does not adopt specific operational provisions in the absence of consensus agreements.

Accordingly, although the Department is adopting a maximum potential volume of shortage to the Lower Division States and maximum volumes of accumulation of conserved water in Lake Powell and Lake Mead for the 2027–2036 period, the Department is not adopting the specific shortage volumes, shortage distributions, or conservation activities reflected in assumptions used to analyze

the Preferred Alternative in the Final EIS,¹ nor is the Department predetermining future specific operations with respect to these matters. Rather, specific shortage volumes, distributions, and conservation activities within the analyzed ranges for the operational sideboards will be established through Operating Guidelines issued pursuant to this ROD and will prioritize consensus agreements. The Department will continue to work with all Basin stakeholders to maximize efforts throughout the Basin to reduce the potential for large shortage volumes.

With respect to provisions concerning Lower Basin shortages in the Operating Guidelines, the Department will consult with the Lower Division States and other affected parties as appropriate, regarding specific shortage volumes and the distribution of shortages in the Lower Division States. The assumptions contained in the Final EIS shall not preclude or predetermine any consultation outcomes, and the Department may adopt shortage volumes and distributions that differ from the modeling assumptions applied in the Final EIS (in particular Table 2-3, Table 2-4 and Appendix C) and will consider approaches from prior NEPA analyses (e.g., the 2007 Interim Guidelines Final EIS), consistent with applicable federal law, so long as the Operating Guidelines remain within operational sideboards in the Decision Framework.

3. Background

3.1 Colorado River System Conditions

The Basin provides essential water supplies to approximately 40 million people, nearly 5.5 million acres of agricultural lands, and habitat for ecological resources across seven States which includes broad areas in the Southwestern United States and Northwestern Mexico. Prudent management of the Basin is critically important because the Colorado River is the foundation for diverse resources across a large geographic region and faces exceptional challenges from prolonged drought and future uncertainty. States, Tribes, and Mexico rely on the Colorado River to support essential municipal, agricultural, environmental, cultural, and hydropower needs.

These resources are now at significant risk: since the onset of the current drought in 2000, the Basin's primary reservoirs, Lake Powell and Lake Mead, have fallen to historically low elevations. Several of the major reservoir- and water-management documents and agreements developed to guide Colorado River operations through the persistently dry conditions expire in 2026, including the [2007 Record of Decision for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead](#) (2007 Interim Guidelines), the [2019 Colorado River Drought Contingency Plan](#) (2019 DCP), and key international agreements between the United States and Mexico.² Despite the significance of these agreements, actions taken over the past two decades have not been sufficiently robust to prevent continued decline of the reservoirs during the prolonged drought.

¹ Specifically, these shortage assumptions, as described in Table 2-3, Table 2-4 and Appendix C of the Final EIS do not preclude or predetermine the development or application of any other legally permissible assumptions and approaches for shortage distribution.

² International agreements are pursuant to the [U.S.-Mexico Treaty on Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande](#) (1944 Water Treaty). The U.S. will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Water Treaty with Mexico through the U.S. Section of the International Boundary and Water Commission (USIBWC) in consultation with the Department of State.

Since 2000, the Basin has been experiencing an unprecedented multi-decadal drought. In the early part of this period, falling reservoir elevations, together with the lack of objective criteria in the LROC for managing the reservoirs at lower levels, prompted the adoption of the 2007 Interim Guidelines. Since their adoption, average annual flows have continued to decline, and flows have been significantly below average in nearly half of the years from 2008 to 2025.

Additional responsive actions were taken during this period to reduce the risk to the Colorado River System's critical infrastructure and to reduce water use. These actions include the 2014 Memorandum of Understanding for Lower Basin Pilot Drought Response Actions (Lower Basin MOU), the 2019 DCP and the 2024 Supplement to the 2007 Interim Guidelines (SEIS). **Despite these actions, storage in Lake Powell and Lake Mead continued to fall.**

Since 2021, extraordinary actions have been necessary to protect the ability of infrastructure at Glen Canyon Dam to continue reliable operations.³ These actions have included additional releases from the CRSP Upper Initial Units to increase the elevation at Lake Powell coupled with further reductions in releases from Glen Canyon Dam to the Lower Basin.

In the spring of this year (2026), the Department implemented unprecedented measures in response to three consecutive years of significantly below-average hydrology from 2024 to 2026, that culminated with this water year's (October 1, 2025, to September 30, 2026) extremely dry hydrologic conditions (with the lowest snowpack since records began in 1930s). These measures included a decision to release up to 660 thousand acre-feet (kaf) to 1.0 maf of additional flows from Flaming Gorge reservoir and to reduce scheduled releases from Glen Canyon Dam to the Lower Basin by approximately 1.5 maf, resulting in an annual release of 6.0 maf.

Despite all of these measures, the risk to the system has never been greater due to the continuing prolonged drought and water demands. As of the adoption of this ROD, the combined contents of Lake Powell and Lake Mead was 12.5 maf, **a low that has not been seen since before Lake Powell began filling in 1963.**

Operating experience over this time has demonstrated that current agreements have not sufficiently reduced risk. The imbalance between water supply and demand will be exacerbated as declining river runoff is anticipated to continue or worsen. It is clear that more robust and adaptive guidelines are needed for the efficient and sustainable management of the mainstream Colorado River reservoirs and system resources. Accordingly, the Department is adopting a Decision Framework capable of responding to evolving hydrologic conditions while protecting critical Federal infrastructure consistent with applicable Federal law, and also providing opportunities for flexible and innovative water management strategies.

3.2 Legal and Operational Setting

The Secretary, acting through Reclamation, is responsible for water management throughout the western United States. Reclamation's authority is significant beginning with the Reclamation Act of

³ At elevation 3,490 feet water can only be released through the river outlet works. Operating below 3,490 feet limits the volume of water that can be released, since water can only pass through the river outlet works. There are infrastructure concerns associated with the uncertainty of extended operations through the river outlet works as the sole means of sustained water releases from Glen Canyon Dam that could compromise the reliability and operational flexibility of Glen Canyon Dam and affect the ability to meet critical downstream water supply needs. There are additional impacts to hydropower associated with operating below 3,490 feet as this is minimum power pool.

1902. The Secretary is vested with the responsibility to manage facilities throughout the Basin and the mainstream waters of the lower Colorado River pursuant to applicable Federal law.

The Secretary also has a broader and unique legal role as he manages the Colorado River System in accordance with Federal law, including the Boulder Canyon Project Act of 1928, the 1963 Decision of the U.S. Supreme Court in *Arizona v. California*, the 2006 Consolidated Decree of the U.S. Supreme Court in *Arizona v. California* (Consolidated Decree), the CRBPA, the Grand Canyon Projection Act of 1992 and other applicable provisions of Federal law. Within this legal framework, the Secretary makes annual determinations regarding the availability of water from Lake Mead by considering various factors, including the amount of water in system storage and predictions of natural runoff. The CRBPA directed the Secretary to propose and adopt criteria: “In order to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty, ... for the coordinated long-range operation of the reservoir constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act.” These criteria are known as the Long-Range Operating Criteria or LROC. The CRBPA also directed the Secretary to prepare an annual report “describing the actual operation under the adopted [LROC] criteria for the preceding compact water year and the projected operation for the current year.” This report is known as the Annual Operating Plan or AOP. See discussion of LROC and AOP in the Final EIS, Section 1.8.7.

Among other provisions described in Section 1.8.7 of the Final EIS, the LROC provide that “the objective shall be to maintain a minimum release of water from Lake Powell of 8.23 maf for that year.” Despite the operational challenges due to prolonged drought, the release from Lake Powell over the term of the 2007 Interim Guidelines has met or exceeded the minimum objective release of 8.23 maf in 13 out of 19 years and has averaged 8.5 maf annually over the 2008–2026 period. Going forward, the Department recognizes the continued importance of operating to achieve the objective of a minimum release of 8.23 maf annually but meeting this objective release has been and will be increasingly difficult in a constrained system of low reservoir elevations, declining river flows, and the need to protect the operational reliability of Glen Canyon Dam.

Pursuant to the CRBPA, the narrative provisions of LROC are utilized by the Secretary, on an annual basis, to make determinations with respect to the projected plan of operations of the storage reservoirs in the Basin, including coordination of the two largest reservoirs: Lake Powell (Glen Canyon Dam) and Lake Mead (Hoover Dam). The AOP is prepared by Reclamation, acting on behalf of the Secretary, in consultation with representatives of the Basin States and other parties, as required by Federal law. In the AOP, with respect to operations of Hoover Dam, the Secretary is required to determine when Normal, Surplus, or Shortage Conditions⁴ occur in the lower Colorado River, based on various factors including storage and hydrologic conditions in the Basin, consistent with the Consolidated Decree.

To date, current operations have been implemented consistent with the LROC and through the issuance of the AOP. Beginning in 2007, the Department adopted the 2007 Interim Guidelines

⁴ A “Normal Condition” occurs when the Secretary determines there is sufficient mainstream water available to satisfy 7.5 maf of annual consumptive use in the Lower Division States. A “Surplus Condition” occurs when the Secretary determine that sufficient mainstream water is available to satisfy consumptive use in the Lower Division States in excess of 7.5 maf annually. A “Shortage Condition” occurs when the Secretary determines that insufficient mainstream water is available to satisfy 7.5 maf of annual consumptive use in the Lower Division States.

which provided specific objective criteria used to implement the LROC through 2026. **As discussed below, the 2007 Interim Guidelines are expiring and new guidelines are needed for operations beginning October 1, 2026.**

3.3 Post-2026 NEPA Process

Reclamation, as the agency that is designated to act on the Secretary's behalf with respect to operations of Glen Canyon Dam and Hoover Dam and managing the mainstream waters of the lower Colorado River in accordance with Federal law, is the lead Federal agency for the purposes of the National Environmental Policy Act of 1969 (NEPA), as amended. The Final Environmental Impact Statement – Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead, dated July 2026 (Final EIS) was prepared pursuant to NEPA, the DOI NEPA Implementing Regulations (43 Code of Federal Regulations [CFR] Part 46) and applicable Department guidance documents. The Final EIS was filed with the Environmental Protection Agency (EPA) on July 27, 2026, and noticed by EPA (72 *Federal Register* 48385) in the Federal Register on July 31, 2026.

Before formally initiating the NEPA process, in June 2022, Reclamation conducted a public “pre-scoping” effort requesting input on suggested mechanisms to ensure a wide range of stakeholder participation in the process and potential substantive elements to be considered for post-2026 operations.⁵ Using the input received, on June 16, 2023, Reclamation published a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) in the Federal Register ([88 Federal Register 39455](#)), formally initiating the public scoping process. A Notice of Availability (NOA) for the [Scoping Report](#) was published in October 2023 in the Federal Register ([88 Federal Register 72535](#)), summarizing all public comments received during the scoping period (June 16, 2023, to August 15, 2023). In addition to these public involvement opportunities, Reclamation received considerable input from the Basin States, many Basin Tribes, conservation organizations, other Federal agencies, other stakeholders and members of the public throughout the two-and-a-half-year alternatives’ development phase. During this period, Reclamation met continually with States, Tribes and other stakeholders to review and discuss their input. Despite these engagement efforts, and in contrast to previous efforts, no clear consensus across the Basin had emerged at the time of the Draft EIS publication. The Draft EIS did not include a Preferred Alternative, preserving the opportunity for entities in the Colorado River to continue discussions to reach consensus.

Based on public input received during the Draft EIS public comment period beginning January 16, 2026, through March 2, 2026, and continued stakeholder coordination, Reclamation revised the Final EIS and incorporated a Preferred Alternative that was within range of the alternatives analyzed in the Draft EIS. The Final EIS was prepared by Reclamation to describe the formulation and evaluation of specific operating guidelines and coordinated management strategies to address Lake Powell and Lake Mead through their full operating range. Management strategies primarily focused on the operation of Glen Canyon Dam and Hoover Dam but also included actions upstream and downstream of these facilities to protect critical reservoir elevations such as releases from the CRSP Upper Initial Units to increase the elevation at Lake Powell, and approaches to enhancing opportunities for Lower Basin water users to reduce water use. While the CRSP Upper Initial Units were included in management strategies, the geographic scope of the EIS was not expanded above Lake Powell because the operations of those facilities is within their existing RODs and have been

⁵ The pre-scoping period began with a Federal Register notice on June 24, 2022 ([87 Federal Register 37884](#)). The Department received substantial feedback from Basin States, Basin Tribes, water users, non-governmental organizations, and the public, which Reclamation summarized in a [Pre-Scoping Summary Report](#) (Reclamation 2023a).

analyzed through other NEPA processes. The Final EIS addresses the environmental issues associated with different guidelines and management strategies and analyzes the environmental consequences of various alternatives. The alternatives analyzed in the Final EIS are those Reclamation determined would meet the purpose of and need for the Federal action and they represent a broad and reasonable range of alternatives for potential future guidelines and reservoir management strategies.

In the absence of a long-term consensus-based approach, Reclamation identified a Preferred Alternative in the Final EIS that consists of a 10-year decision framework. Using a modeling representation of potential operating guidelines that may be developed under the Preferred Alternative, a range of potential impacts were identified, analyzed, and compared to the other alternatives. **The Decision Framework does not establish specific reservoir operating guidelines; rather, it provides the structure and sideboards within which operating guidelines will be developed, reviewed and periodically updated through 2036 to allow for consensus and voluntary actions.**

Throughout the NEPA process, Reclamation engaged extensively with five cooperating agencies that provided special expertise in the environmental analysis and preparation of the Final EIS:

- Bureau of Indian Affairs (BIA)
- National Park Service (NPS)
- U.S. Fish and Wildlife Service (FWS)
- U.S. Section of the International Boundary and Water Commission (USIBWC)
- Western Area Power Administration (WAPA)

3.4 Need for the Decision

The Department and Reclamation engaged extensively with the Basin States, Basin Tribes, and other interested parties in pursuit of developing consensus-based long-term operating guidelines. Unfortunately, as of the adoption of this ROD, consensus on long-term operations has not been reached.

Regardless of the lack of consensus, the Secretary must provide for continued coordinated operation of the Colorado River reservoir system and new operations must begin October 1, 2026. Accordingly, the Secretary has determined that adoption of the Decision Framework provides the appropriate mechanism to ensure continuity of operations with the ability to respond to rapidly changing conditions, both preserving the opportunity to incorporate future consensus recommendations and providing the flexibility to make necessary decisions, consistent with applicable Federal law, in the absence of such recommendations. **Using the Decision Framework, Operating Guidelines that address operations beginning on October 1, 2026, will be issued pursuant to this ROD.**

4. Alternatives Considered

The purpose of the proposed federal action is to:

- Update and expand management guidelines for Colorado River reservoirs, particularly for the coordinated operations of Lake Powell and Lake Mead
- Provide Colorado River water users a greater degree of predictability with respect to annual water availability in future years under anticipated increasing variability, low runoff, and low reservoir conditions
- Provide additional mechanisms for the conservation, exchange, storage, and delivery of water supplies in Colorado River reservoirs to increase the flexibility to meet water use needs
- Provide new or enhanced opportunities for Basin Tribes to benefit from their water rights
- Provide flexibility to build resilience and accommodate future needs and growth that are supported by Colorado River water supplies, including the integration of unquantified Tribal water rights once they are resolved

This proposed federal action considers the following operational elements that collectively are designed to address the purpose and need for the proposed federal action. Operating guidelines would be used by the Secretary to:

- determine those circumstances under which the Secretary would allocate, reduce, or increase the annual amount of water available for consumptive use from Lake Mead to the Lower Division States at, below, or above 7.5 maf, pursuant to the Consolidated Decree.
- define the coordinated operations of Lake Powell and Lake Meads, particularly under low reservoir conditions.
- allow for the storage and delivery of conserved Colorado River System and non-system water in Lake Mead and Lake Powell, pursuant to applicable law, to increase flexibility in meeting water use needs.

The proposed federal action allows for development of robust operating guidelines for Lake Powell and Lake Mead without precluding upstream or downstream actions needed to protect critical reservoir elevations at Lake Powell and Lake Mead, such as the following:

- Approaches that consider total system storage in all major Colorado River reservoirs and/or actual inflows to determine coordinated operations of Lake Powell and Lake Mead.
- Approaches that include opportunities for conservation, augmentation, demand management, or other water management strategies (such as exchanges or transfers).
- Modified operations at upstream CRSP Upper Initial Units to release additional water if needed to protect critical infrastructure at Glen Canyon Dam.

Six alternatives are considered and analyzed in the Final EIS. The alternatives consist of a No Action Alternative and five action alternatives. The five action alternatives are: (1) the Basic Coordination Alternative, (2) the Enhanced Coordination Alternative, (3) the Maximum Operational Flexibility Alternative, the (4) Supply Driven Alternative, and (5) the Preferred Alternative. The action

alternatives reflect input from Basin States, Basin Tribes, conservation organizations, cooperating agencies and Reclamation staff.

The action alternatives represent a reasonable and broad range of alternatives for managing the Colorado River System and its resources post-2026. The objectives associated with analyzing a sufficiently broad range of alternatives were two-fold:

1. Ensuring that decision-makers and the public are informed of all potential impacts and tradeoffs of different operational approaches
2. Providing analysis for the four operational elements (Guidelines to Reduce or Increase Deliveries from Lake Mead, Coordinated Reservoir Operations, Storage and Delivery of Conserved System and Non-System Water, and Additional Activities above Lake Powell) that are the basis for operating guidelines that may eventually be developed under the Preferred Alternative

The process of developing the range of alternatives was informed by solicitation of input and extensive collaborative engagement with stakeholders throughout the Basin. For those proposals containing sufficient detail to be considered as a full alternative or a major component of an alternative, Reclamation worked extensively with these entities to capture their concepts in the action alternatives, as the descriptions below reflect.

The Preferred Alternative was developed in spring 2026 in recognition that shorter-term, hydrology-responsive operating guidelines developed within a decision framework that balances predictability and flexibility while providing opportunities for consensus was the most prudent approach to managing reservoirs near critical elevations.

The summaries below provide background and brief descriptions of how the alternatives address the four operational elements. The maximum shortage volumes include modeling assumptions about reductions in water deliveries to Mexico.⁶

4.1 No Action Alternative

The No Action Alternative is included as a requirement of NEPA. Operations would revert to annual determinations announced through the AOP. Pursuant to the LROC, the objective is to maintain a minimum release of water from Lake Powell of 8.23 maf, therefore Lake Powell releases are assumed to be 8.23 maf unless a higher release is required for equalization or a lower release occurs due to Glen Canyon Dam infrastructure limitations. Shortages to the Lower Basin would be based on priority and reach a maximum of 600 kaf. This would not represent a continuation of current operations but is generally based on the operating guidance that was in place before the adoption of the 2007 Interim Guidelines. While the authority to use CRSP Upper Initial Units to respond to exigent and emergency conditions was recognized at that time, no specific framework for such activities had been developed, so no defined activities are included in this alternative. Existing

⁶ Reclamation's modeling assumptions are not intended to constitute an interpretation or application of the 1944 Water Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The U.S. will conduct all necessary and appropriate discussions regarding the proposed Federal action and implementation of the 1944 Water Treaty with Mexico through the USBWC in consultation with the Department of State.

ICS would be delivered in accordance with existing agreements, but there would be no new storage and delivery mechanisms.

4.2 Basic Coordination Alternative

The Basic Coordination Alternative was designed to be implementable absent new agreements among Basin water users. Lake Powell releases would primarily be 8.23 maf, with some releases above and below 8.23 maf, and minimum releases of 7.0 maf. Lake Powell elevations could be increased by releases from CRSP Upper Initial Units within their respective RODs to protect infrastructure at Glen Canyon Dam. Reclamation would identify triggers for when additional Upper Basin actions are needed to protect critical infrastructure. Lower Basin shortages up to 1.48 maf would be triggered based on Lake Mead elevation and distributed consistent with priority system. Existing ICS would be delivered in accordance with existing agreements, but there would be no new delivery and storage mechanisms.

4.3 Enhanced Coordination Alternative

The Enhanced Coordination Alternative is based on concepts from Basin Tribes, Federal agencies, and other stakeholders to achieve protection of critical infrastructure while benefitting key resources (e.g., natural, hydropower and recreation) through an approach to distributing storage between Lake Powell and Lake Mead. Lake Powell releases would be determined based on a combination of Lake Powell and Lake Mead elevations, 10-year running-average hydrology, and Lower Basin deliveries. This alternative would include storage and delivery mechanisms for Lake Powell and Lake Mead and extensive flexibilities for all users. The operations incorporate Basin-wide shared contributions to the system, including Upper Basin conservation that would be stored in Lake Powell and Lower Basin shortages starting at 1.3 maf, approximately the average annual evaporative and system losses at and below Lake Mead, and reaching a maximum of 3.0 maf. Shortages would be triggered based on combined storage in Lake Powell and Lake Mead and distributed pro rata.

4.4 Maximum Operational Flexibility Alternative

The Maximum Operational Flexibility Alternative is informed by a proposal submitted by a consortium of conservation organizations and incorporates proactive responses, targeted reservoir management strategies and innovative and flexible tools to address an increasingly variable set of future hydrologic conditions. Lake Powell releases would range from 5.0 maf to 11.0 maf and would be determined by total CRSP system storage and recent hydrology. Releases would switch to “run-of-river” when Lake Powell is at 3,510 feet or lower. The operations incorporate Basin-wide shared contributions, including up to 4.0 maf of shortages in the Lower Basin triggered by combined seven-reservoir storage (CRSP Upper Initial Units, Lake Mead, Lake Mohave, and Lake Havasu) and recent hydrology and voluntary water contributions from both basins.

4.5 Supply Driven Alternative

The Supply Driven Alternative reflects operational concepts that Reclamation explored with the Basin States in summer and fall of 2025. Annual Lake Powell releases are determined based on a 65 percent of 3-year-average natural flow at Lees Ferry. Lake Powell elevations could be increased by releases from CRSP Upper Initial Units within their respective RODs to protect infrastructure at Glen Canyon Dam. This alternative would include new delivery and storage mechanisms for Lake Powell and Lake Mead. Lower Basin shortages up to 2.1 maf would be triggered based on Lake Mead elevation. This alternative analyzes two approaches to shortage distribution: (1) State-based combined with Lower Basin-wide priority and (2) State-based combined with Lower Basin-wide pro rata.

4.6 Preferred Alternative

The Preferred Alternative is a 10-year decision framework through 2036. The decision framework establishes operational principles, sideboards (key thresholds and ranges for operational elements) and a process that would govern development and issuance of operating guidelines covering anticipated 2-year intervals, unless consensus-based agreements provide for a longer duration. **The framework does not establish specific operating guidelines; rather, it provides the structure within which operating guidelines would be developed, reviewed, and periodically updated.** The framework (principles, sideboards, and process) would remain constant through 2036 and allow for voluntary actions and consensus, unless modified through future Federal action and appropriate environmental compliance.

In contrast to the specified operations under alternatives described above, the Preferred Alternative is designed to create the opportunity for subsequent decision making; because of this distinction, it is analyzed programmatically through a modeling representation of operating guidelines that may be developed under the Preferred Alternative. The sideboards provide a basis for understanding the range of potential impacts, and analyzing these potential impacts provides a necessary and instructive comparison to the other alternatives included in the Final EIS. Taken together, the representation of the operational elements described below is referred to and analyzed in the Final EIS as the “Representative Preferred Alternative.” The Representative Preferred Alternative is a set of modeling assumptions designed around the Preferred Alternative sideboards to approximate a range of operating guidelines that may be adopted for each interval during the 10-year framework.

The Representative Preferred Alternative models Lake Powell releases from 5.0 maf to 12.0 maf and models Lower Basin shortages up to 3.6 maf (distributing 3.0 maf among the Lower Division States). Shortages are analyzed using the two concepts captured in the sideboards: voluntary agreements (reflected in 2027–2028 by using the distribution developed by the Lower Division States for shortages up to 1.5 maf) and a representation of applicable law applied for shortages exceeding 1.5 maf in 2027–2028 and after 2028. The modeling assumptions also provide for storage and delivery mechanisms for conserved water in both Lake Powell and Lake Mead of 3.0 maf and 8.0 maf, respectively.

The description above reflects how the Representative Preferred Alternative was modeled. **The assumptions modeled under the Representative Preferred Alternative do not limit future agreements, nor do they preclude or predetermine other legally permissible applications of law or Secretarial authorities in particular operations.** Specific operations would be identified through the operating guidelines developed for each interval as described in **Section 10.4**. The modeling assumptions do not preclude the development or application of any other legally permissible assumptions and approaches for operations including those that may be established through agreements or operating guidelines developed pursuant to the Decision Framework.

5. Basis for the Decision

In developing this Decision Framework there are a number of key factors that the Secretary considered, including the following:

- Over the past 26 years, the Basin has been experiencing an unprecedented multi-decadal drought, resulting in historically low runoff and reservoir levels. Increased future hydrologic

variability with the continuation of prolonged droughts and low-runoff conditions is likely. These conditions will exacerbate the now widely recognized imbalance between water supply and demand in the Basin.

- The extremely low hydrologic conditions experienced since 2000 coupled with meeting water demands, albeit somewhat reduced by conservation and other activities, have resulted in the lowest combined contents at Lake Powell and Lake Mead since before Lake Powell began filling in 1963.
- Based on operational experience since 2007, the expiring guidelines were not robust enough to manage the system in a way that is sufficiently protective of the resources dependent on the Colorado River. Despite near-continuous drought-response actions over the past decade, low reservoir conditions have persisted, and new infrastructure risks at Glen Canyon Dam have arisen.
- As reservoir elevations have continued to fall and risk has continued to increase, a series of historic and interdependent agreements involving local, State, Tribal and Federal governments, water users and non-governmental organizations in both the United States and Mexico have enabled the system to operate by negotiated agreement rather than court determinations. With most of these agreements set to expire this year, the Department and Reclamation engaged extensively with the Basin States, Basin Tribes, and other interested parties over the past 3 years to develop successor long-term, consensus agreements for managing the Colorado River reservoirs. Unfortunately, as of the publication of the Final EIS on July 31, 2026 and this ROD, consensus has not been reached.

Given the history of the Basin since 2000, the need for a flexible and adaptive decision framework, one that considers the system as a whole and is based on actual hydrology, is clear. Furthermore, with the 2007 Interim Guidelines and other relevant agreements expiring September 30, 2026, new prescribed, objective, operating guidelines cannot wait for consensus. Reservoir operations are inherently ongoing and operating criteria for Lake Powell and Lake Mead must be in place by October 1, 2026.

It is against this backdrop of hydrologic risk and lack of consensus that Reclamation prepared the Preferred Alternative contained in the Final EIS. The Preferred Alternative establishes an adaptive Decision Framework for a 10-year period that will be used to develop specific Operating Guidelines in anticipated 2-year intervals (though the interval may be modified within the 10-year period). By facilitating the development of shorter-term guidelines, the Decision Framework enables reliable operations to continue while being able to respond to rapidly changing conditions. Furthermore, the Decision Framework supports continued Basin-wide discussions and the development and implementation of consensus agreements should they arise and also provides the Secretary the flexibility to make necessary decisions, consistent with applicable Federal law, in the absence of such agreements. The Secretary has, and retains all, legal authority to ensure ongoing operations of Colorado River facilities, including operational actions taken to address extraordinary circumstances to ensure protection of critical Federal infrastructure and continuous operational reliability of such facilities.

The Decision Framework establishes operational principles, operational sideboards, and a process to guide the development of specific guidelines for each operating interval. Specifically, the operational principles provide the fundamental objectives to be considered in developing specific Operating Guidelines, the sideboards provide the key thresholds and ranges for operational elements making

up specific guidelines and the process ensures that specific guidelines are developed in a transparent and inclusive way and provides the opportunity to review the guidelines' performance as well as to consider new developments.

The Draft EIS published in January 2026 purposely did not identify this (or any) preferred alternative in order to allow for continued opportunity for consensus. Because the Framework provides for the needed flexibility and adaptability, precise operations for each year in the 10-year period cannot be specified within this ROD. However, the sideboards provide a range for potential operating guidelines that may be issued during the 2027–2036 period, allowing the ability to represent the Decision Framework as an alternative (called the “Representative Preferred Alternative”) and include it in the Final EIS. Specific operations will be identified in Operating Guidelines issued pursuant to this ROD.

Analysis of the Preferred Alternative, illustrated by the Representative Preferred Alternative, includes modeling assumptions related to different volumes of potential shortages to the Lower Division States, distributions of those shortages, and potential activities related to Lake Mead conservation mechanisms. Assumptions related to the potential 2027–2028 distribution of 1.25 maf of shortage were derived from proposals previously submitted by the Lower Division States. Assumptions for larger shortage volumes and conservation activity were developed for analytical purposes and do not represent the Department's intentions to implement particular operations or limit future agreements, nor do they necessarily reflect interpretations of law or Secretarial authorities.

Accordingly, although the Department is adopting a maximum potential volume of shortage to the Lower Division States of up to 3.0 maf for the 2027–2036 period, the Department is not adopting the specific shortage volumes, shortage distributions, or conservation activities reflected in assumptions used to analyze the Preferred Alternative in the Final EIS, nor is the Department predetermining future specific operations with respect to these matters. **Rather, specific shortage volumes, distributions, and conservation activities within the analyzed ranges for the operational sideboards will be established through Operating Guidelines issued pursuant to this ROD and will prioritize consensus agreements.** The Department will continue to work with all Basin stakeholders to maximize efforts throughout the Basin to reduce the potential for large shortage volumes.

Given the information detailed above, Reclamation concluded that the Preferred Alternative was reasonable and fully analyzed its environmental effects in the Final EIS. The identified environmental effects are well within the range of the anticipated effects of the alternatives in the Draft EIS and do not affect the environment in a manner not already considered in the Draft EIS. As described in Section 2.6.2 of the Final EIS, the Preferred Alternative appropriately balances system tradeoffs and is a practical approach to robust protection of critical infrastructure while considering adverse impacts to water users and avoiding unnecessary impacts to other resources. Thus, based on all available information, the Preferred Alternative is a reasonable, feasible, implementable, and durable alternative and provides the ability to adapt to changing circumstances.

The Department is adopting the Decision Framework as described in the Preferred Alternative. **Using the Decision Framework, Operating Guidelines that address operations that begin on October 1, 2026, will be issued pursuant this ROD.**

6. Public and Stakeholder Engagement

The process leading to this ROD has been defined by robust and inclusive engagement with the States, Tribes, stakeholders and the public. From the outset, the Department and Reclamation recognized that the complexity and significance of Colorado River operations demand a transparent and inclusive approach. Throughout the development of the Final EIS and this ROD, the Department convened regular consultations with representatives of the seven Basin States, providing opportunities for input and discussion. Although Basin-wide consensus on long-term operating guidelines for the full duration of the Preferred Alternative was not reached prior to completion of the Final EIS, **the Department has designed the adopted Decision Framework to accommodate future agreements and remains committed to pursuing consensus-based operations.**

In parallel, the Department undertook extensive engagement efforts with the 30 federally recognized Tribes in the Basin, consistent with Federal trust responsibilities and applicable law. These efforts consisted of monthly information calls during the process, establishing Tribal technical workgroups, and government-to-government consultations to ensure Tribes remained informed and had opportunities for meaningful communication. Tribal input on water rights, resource management, and cultural resources informed the development and refinement of alternatives, and the Department has ensured that Tribal comments and concerns are captured in the Final EIS and addressed in this ROD.

Before formally initiating the NEPA process, in June 2022, Reclamation conducted a public “pre-scoping” effort requesting input on suggested mechanisms to ensure a wide range of stakeholder participation in the process and potential substantive elements to be considered for post-2026 operations. Subsequently, in June 2023 Reclamation issued a NOI to prepare an EIS, followed by a comprehensive public scoping process that included public meetings, webinars, and opportunities for written comment. The Draft EIS was made available for public review in January 2026, and the Department received and reviewed thousands of submissions from a broad spectrum of stakeholders, including state and local governments, Tribes, water users, non-governmental organizations, and members of the public. All substantive comments were systematically reviewed, organized into themes, and addressed in the Final EIS. In response to these comments, the Department and Reclamation made clarifications and refinements to the Final EIS, including updates to modeling assumptions, additional analysis of environmental and socioeconomic impacts, and enhanced discussion of Tribal and stakeholder engagement. The Department’s responses to public and stakeholder input are documented in the Final EIS and reflected in the Decision Framework and guidelines adopted in this ROD. **The Department remains committed to continued engagement with all stakeholders as implementation proceeds, and to maintaining the flexibility to adapt operating guidelines in response to new information, voluntary actions, changing conditions and future consensus recommendations.**

7. Environmental Review and Compliance

Hydrologic modeling of the Colorado River System was conducted to determine the potential hydrologic effects of the alternatives. Modeling provided projections of future Colorado River System conditions (i.e., reservoir elevations, reservoir releases, river flows) for comparison of those conditions under the No Action Alternative and the action alternatives, including the Preferred

Alternative. Due to the uncertainty with regard to future inflows into the system, multiple ensembles were modeled to in order to analyze a reasonable range of uncertainties of future conditions. The analysis for the Final EIS uses a Decision Making under Deep Uncertainty approach, which is designed to account for uncertainty in future Basin conditions, especially hydrology. The hydrologic modeling generated projections that serve as the basis for analyzing potential effects on other environmental resources, including recreation, biological resources, and hydropower generation, as well as resource-specific models.

Hydrologic modeling also provided the basis for the analysis of the potential effects of each alternative on other environmental resources. The Final EIS evaluated the following resource areas: hydrologic resources, water deliveries, geomorphology and sediment, water quality, air quality, biological resources (including fish and other aquatic species), vegetation (including special status species), terrestrial wildlife (including special status species), cultural resources, paleontological resources, Tribal resources, recreation, dams and electrical power resources, socioeconomics, population and land use, Indian trust assets, and visual resources. The potential effects on specific resources were identified and analyzed for the No Action Alternative and the action alternatives, including the Preferred Alternative, as analyzed through the Representative Preferred Alternative.

It is important to note that Reclamation has been undertaking environmental mitigation measures on the Colorado River for more than 20 years through both the Lower Colorado River Multi-Species Conservation Program (LCR MSCP) and for the last 30 years through the Glen Canyon Dam Adaptive Management Program (GCDAMP). Based on the analyses in the Final EIS, the ongoing mitigation being conducted under these programs, and any new conservation measures are described below (to be implemented by the LCR MSCP and GCDAMP).

7.1 Lower Colorado River Multi-Species Conservation Program

The LCR MSCP is a 50-year cooperative effort between Federal and non-federal entities, approved by the Secretary in April 2005 and is in effect through 2055. This program was developed to address potential effects to listed and other selected special status species (covered species) from identified ongoing and future anticipated Federal discretionary actions and non-federal activities on the lower Colorado River (covered actions). When established in 2005, the Biological Opinion (BO) issued by FWS for the LCR MSCP provided Endangered Species Act (ESA) compliance for the effects of covered actions until 2055. When the 2007 Interim Guidelines were adopted, the ESA compliance provided by the 2005 BO was sufficient to allow for full implementation of the 2007 Interim Guidelines. In 2018, the LCR MSCP was amended and a new BO was issued to address potential effects to the northern Mexican gartersnake for the identified ongoing and future anticipated covered actions. The 2018 BO expires in 2055. In 2022, a new BO was issued for the LCR MSCP to accommodate implementation of the 2019 Lower Basin DCP and the 2014 Lower Basin MOU. This 2022 BO increased coverage for annual flow reductions from Hoover Dam to Parker Dam up to 1.574 maf. The 2022 BO expires in 2055. In 2024, in response to the purpose and need identified in the 2024 SEIS, a new BO was issued for the LCR MSCP to allow for annual flow reductions in a range of 2.083 maf up to 3.0 maf through January 31, 2028.

The LCR MSCP has coverage from the 2024 BO for the SEIS for the possibility of reduced flows up to 3.0 maf through January 2028. Reduced flows is a cumulative total of reduced water releases out of Hoover Dam including reduced water released for deliveries to the Lower Division States, ICS, and other conservation activities. Reclamation and FWS are working to extend the 2024 BO while the LCR MSCP is being amended to provide long term coverage for increased reduction in

flows that may result from additional activities under at the upper end of the operational sideboards under the Preferred Alternative. These combined actions allow for the possible implementation of up to 3.0 maf of reduced flows, with required ongoing consultations, including reinitiating Section 7 consultation, will provide coverage through the life of the LCR MSCP for additional activities that may be taken under the ranges identified in the Preferred Alternative.

The LCR MSCP identified, and is mitigating for, impacts on the covered species and their habitats from the flow reductions described above. The analyses completed in 2005 and 2022 estimated these impacts to include the potential loss of up to 2,008 acres of cottonwood-willow habitat, 140 acres of marsh habitat, and 414 acres of backwater habitat. The analysis completed under the 2024 BO estimated additional impacts resulting in the potential loss of 41 acres of marsh habitat and 109 acres of backwater habitat.

To offset these impacts, the LCR MSCP will continue implementation of all conservation measures established in 2005, 2018, 2022, and 2024 including:

- creation and long-term management of 5,940 acres of cottonwood-willow habitat,
- creation and long-term management of 568 acres of marsh habitat,
- creation and long-term management of 484 acres of backwater habitat,
- stocking of 660,000 razorback sucker over the term of the LCR MSCP,
- stocking of 620,000 bonytail over the term of the LCR MSCP; and
- a suite of additional avoidance and minimization measures, monitoring and research measures, and species-specific conservation measures.

These habitats will be actively managed to provide habitat values greater than those of the impacted habitats. While the LCR MSCP is geared toward special status species, it is important to understand that all species that use the habitats impacted by the LCR MSCP covered activities benefit by the conservation actions currently being carried out under the LCR MSCP.

7.2 Glen Canyon Dam Adaptive Management Program (GCDAMP)

The GCDAMP provides an organization and process for cooperative integration of dam operations, downstream resource protection and management, and monitoring and research information, as well as to improve the values under the Grand Canyon Protection Act for which the Glen Canyon National Recreation Area and Grand Canyon National Park were established. The GCDAMP works within the operating guidelines of the Long-Term Experimental and Management Plan (LTEMP) for sub annual operations of Glen Canyon Dam.

7.3 Endangered Species Act (ESA) Compliance

A. Lake Powell to Lake Mead

In compliance with the ESA, Reclamation submitted a Biological Assessment (BA) to FWS on July 15, 2026, and requested formal consultation on the Preferred Alternative for the geographic area Lake Powell downstream to the upper end of Lake Mead.

Through the Representative Preferred Alternative, Reclamation reviewed the potential effects of the Preferred Alternative in the Final EIS and determined that all potential effects to listed species and

their habitats from full pool Lake Powell to the inflow of the Colorado River into Lake Mead are covered by the Post-2026 ESA consultation.

The BA included the “likely to adversely affect” finding for the razorback sucker and humpback chub and their critical habitat and a “not likely to adversely affect” finding for the Colorado pikeminnow, bonytail chub, southwestern willow flycatcher, and the western yellow-billed cuckoo.

New conservation measures identified in the BA were designed to address warmwater nonnative invasive fish entrainment and downstream production under lower Lake Powell elevations. Should future conditions exist such that elevations remain high (e.g., >3,565 feet) and release temperatures cool for an extended period (e.g., <16 C for 5 years), Reclamation will coordinate with the FWS to determine what conservation measures can be reduced or are no longer necessary. Conservation measures identified in the 2016 LTEMP BO and the 2024 BO for the SEIS will be continued and are included as part of the new proposed conservation measures.

FWS issued its BO for the Preferred Alternative by memo dated August 13, 2026. The BO concurred with Reclamation’s “may affect and is not likely to adversely affect” findings for the Colorado pikeminnow, bonytail chub, southwestern willow flycatcher, and the western yellow-billed cuckoo, and found that the Preferred Alternative “may affect, and is likely to adversely affect” the razorback sucker and the humpback chub. However, the BO concluded that Preferred Alternative is not likely to jeopardize their continued existence or destroy or adversely modify the habitat of either species. In addition to the conservation measures identified in the BA, FWS determined that it would be necessary and appropriate to monitor the effects of the Preferred Alternative on humpback chub, including incidental take resulting from the Preferred Alternative, and report the findings to FWS.

B. Lake Mead to the Southerly International Boundary with Mexico

Reclamation reviewed the effects of the Preferred Alternative in the Final EIS and determined that all potential effects to listed species and their habitats from Lake Mead to the Southerly International Boundary with Mexico were covered by the existing consultations for the LCR MSCP. An amendment to the LCR MSCP Habitat Conservation Plan and an associated BA are currently being developed, with an anticipated completion in January 2028, to extend Section 7 and Section 10 consultation incidental take coverage for the LCR MSCP’s Federal and non-federal parties until 2055.

7.4 National Historic Preservation Act - Section 106 Compliance

Section 106 of the National Historic Preservation Act (NHPA; 54 U.S.C 306108), as amended, and its implementing regulations (36 CFR part 800) require Federal agencies to take into account the effects of their Federal undertakings on historic properties, in consultation with appropriate consulting parties.

Reclamation determined that this Federal action constitutes a Federal undertaking subject to Section 106 of the NHPA and initiated consultation with the State Historic Preservation Officers for Arizona, California, Nevada, and Utah; Tribal Historic Preservation Officers (THPOs); affected Tribes without THPOs; land-managing agencies; and other consulting parties, to develop a project-specific programmatic agreement (36 CFR 800.14). Given the geographic scale and scope of the undertaking, Reclamation is using a phased approach consistent with 36 CFR 800.4(b)(2) to identify and evaluate historic properties included on, or eligible for inclusion on, the National

Register of Historic Places within the defined Area of Potential Effects and for applying the criteria of adverse effect pursuant to 36 CFR 800.5(a)(3). In coordination with the Post-2026 NEPA process, Section 106 consultation efforts considered the potential effect of the undertaking on historic properties and established a process for resolving potential adverse effects to historic properties resulting from Reclamation's operation of the Glen Canyon and Hoover Dams under new Operating Guidelines.

A Programmatic Agreement has been developed that establishes a framework for identification, evaluation, consultation, monitoring, and potential treatment of historic properties. Detailed compliance procedures will be included in the Historic Preservation Plan (HPP) developed in consultation with consulting parties. Reclamation's compliance with the procedures in the HPP will fulfill its compliance responsibilities under Section 106 of the NHPA. This Programmatic Agreement is anticipated to be executed prior to October 1, 2026 when operations pursuant to this ROD will begin.

8. Operational Setting

8.1 Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs

Section 602 of the CRBPA required the Secretary to propose and adopt criteria for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act of 1956, the Boulder Canyon Project Act of 1928 (BCPA), and the Boulder Canyon Project Adjustment Act. The Secretary adopted such "Long-Range Operating Criteria" (LROC) in 1970 and has been operating the Colorado River consistent with the LROC since 1970. In 2005, the Secretary approved minor changes to the text of the LROC. (70 *Federal Register* 15873, Mar. 29, 2005). The Secretary identified the bases for the limited changes as: (1) specific change in Federal law applicable to the Operating Criteria, (2) language in the current text of the Operating Criteria that was outdated, and (3) specific modifications to Article IV(b) of the Operating Criteria that reflect actual operating experience.

The Department intends to implement the LROC through the Operating Guidelines issued pursuant to the Decision Framework and implemented through the AOP. The Operating Guidelines may also provide for temporary operational actions that are not otherwise provided for under the LROC when necessary to protect critical Federal infrastructure during extraordinary circumstances, consistent with applicable Federal law.

8.2 Annual Operating Plan for Colorado River Reservoirs

Section 602(b) of the CRBPA of 1968 requires that the Secretary transmit to the Congress and to the Governors of the Basin States, by January 1st of each year, a report describing the actual operation under the LROC for the preceding compact water year and the projected operation for the current year. This report is commonly referred to as the AOP.

Each year the Secretary implements the provisions of the 1968 statute regarding the projected operation of Colorado River reservoirs and stakeholder consultation through the Colorado River Management Work Group. This process involves appropriate consultation prior to finalization of the proposed AOP. The AOP is used to memorialize operational decisions that are made pursuant to individual Federal actions (e.g., 2007 Interim Guidelines, Operating Guidelines issued pursuant to

this ROD). Thus, the AOP serves as a single, integrated reference document required by Section 602(b) of the CRBPA of 1968 regarding past and anticipated operations.

It is the Department's decision that Operating Guidelines developed and issued pursuant to this ROD will be implemented and documented on an annual basis through each year's AOP through 2036. Such guidelines will address annual volumes of releases from Glen Canyon Dam and Hoover Dam. Accordingly, this ROD does not modify the authority of the Secretary to determine monthly, daily, hourly or instantaneous releases from Glen Canyon Dam and Hoover Dam.

8.3 Framework for Operations at the Initial Units of the Colorado River Storage Project Act Under Drought Conditions

The CRSP Upper Initial Units will be operated consistent with their current authorities, each facility's current RODs, and associated NEPA compliance documents, which are not modified by this ROD. The Secretary anticipates executing an agreement describing a process to plan for CRSP Upper Initial Units operations within such existing authorities.

8.4 Mexico

The United States delivers an annual allotment of Colorado River water to Mexico pursuant to the 1944 Water Treaty between the United States and Mexico. In the absence of a Basin consensus on water management strategies coupled with the ever-increasing hydrologic risk, the Department is taking a final agency action regarding the Decision Framework that will be used to issue Operating Guidelines for the operations of Lake Powell and Lake Mead, and the delivery of water to water users in the United States.

The United States and Mexico, through the International Boundary and Water Commission (IBWC), have a history of successful cooperation on the Colorado River to address Basin issues through Minutes to the 1944 Water Treaty. Since 2008, the United States and Mexico have continued this cooperation to address the ongoing drought through multiple minutes, including Minutes 316, 317, 318, 319, 323, and 330.

Prior to adopting this Decision Framework, the Department provided information on the proposed action to the IBWC and met with representatives of the Mexican Section of the IBWC and the Mexican Government. The Department has considered the information provided by the IBWC prior to adopting this Decision Framework, including information representing the views of the government of Mexico.

The Department notes the intention of the governments of the United States and Mexico to continue the cooperation and collaboration regarding issues related to the Colorado River through the IBWC. In addition, the Department acknowledges ongoing binational work reflecting continued commitment by both governments to develop cooperative mechanisms responsive to emerging conditions on the Colorado River.

The Department has considered domestic environmental impacts related to its obligation to deliver water to Mexico under the 1944 Water Treaty and has determined they fall within the scope of the analysis.

9. Definitions

For the purpose of this ROD, the following definitions apply. Additionally, each set of Operating Guidelines issued from the Decision Framework includes definitions that are specific to those guidelines.

1. “2007 Interim Guidelines” refers to the 2007 Record of Decision for the Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead.
2. “24-Month Study” refers to the operational study that reflects the current AOP that is updated each month by Reclamation to project future reservoir contents and releases. The projections are updated each month using the previous month’s reservoir contents and the latest inflow and water use forecasts.
3. “AOP” shall mean the Annual Operating Plan for the Colorado River System Reservoirs.
4. “BCPA” shall mean the Boulder Canyon Project Act of 1928 (28 Stat. 1057).
5. “Basin States” shall mean the seven Colorado River Basin States of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming.
6. “Basin Tribes” shall mean the 30 federally recognized Native American tribes in the Basin: Ak-Chin Indian Community, Chemehuevi Indian Tribe, Cocopah Indian Tribe, Colorado River Indian Tribes, Fort McDowell Yavapai Nation, Fort Mojave Indian Tribe, Fort Yuma-Quechan Tribe, Gila River Indian Community, Havasupai Tribe, Hopi Tribe, Hualapai Tribe, Jicarilla Apache Nation, Kaibab Band of Paiute Indians, Las Vegas Paiute Tribe, Moapa Band of Paiute Indians, Navajo Nation, Pascua Yaqui Tribe, Pueblo of Zuni, Salt River Pima-Maricopa Indian Community, San Carlos Apache Tribe, San Juan Southern Paiute, Shivwits Band of Paiutes, Southern Ute Indian Tribe, Tohono O’odham Nation, Tonto Apache Tribe, Ute Indian Tribe of the Uintah and Ouray Reservation, Ute Mountain Ute Tribe, White Mountain Apache Tribe, Yavapai-Apache Nation, and Yavapai-Prescott Indian Tribe.
7. “Certification Report” shall mean the written documentation provided by a Contractor that provides the Secretary with sufficient information to allow the Secretary to determine whether the quantity of ICS or DSS approved by the Secretary in an approved plan has been created and whether the creation was consistent with the approved plan.
8. “Colorado River System” shall have the same meaning as defined in the 1922 Colorado River Compact.
9. “Consolidated Decree” shall mean the Consolidated Decree entered by the United States Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006).
10. “Contractor” shall mean an entity holding an entitlement to Mainstream water under (a) the Consolidated Decree, (b) a water delivery contract with the United States through the Secretary, or (c) a reservation of water by the Secretary, whether the entitlement is obtained under (a), (b) or (c) before or after the term of this ROD.
11. “CRBPA” shall mean the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885).
12. “Colorado River Storage Project Upper Initial Units” shall mean Flaming Gorge, Blue Mesa (the most upstream facility of the Aspinall Unit, which serves as its primary storage reservoir) and Navajo reservoirs.

13. “DSS Account” shall mean records established by the Secretary regarding Developed Shortage Supply.
14. “Decision Framework” shall mean the operational principles, sideboards (key thresholds and ranges for operational elements), and process that will govern development and issuance of Operating Guidelines through 2036.
15. “Delivery Agreement” shall mean an agreement consistent with this ROD entered into between the Secretary and one or more Contractors creating ICS.
16. “Developed Shortage Supply (“DSS”)” shall mean water available for use by a Contractor under the terms and conditions of a Delivery Agreement and Section XI.G.4 of the 2007 Interim Guidelines in a Shortage Condition (as determined in Operating Guidelines issued pursuant to this ROD), under Article III(B)(3) of the Consolidated Decree.
17. “Domestic Use” shall have the same meaning as defined in the 1922 Colorado River Compact.
18. “Forbearance Agreement” shall mean an agreement under which one or more Contractors agree to forbear any right under a water delivery contract or the Consolidated Decree to water involved in ICS, System Conservation, or other action resulting in a verified reduction in consumptive use.
19. “ICS Account” shall mean records established by the Secretary regarding ICS.
20. “Intentionally Created Surplus (“ICS”)” shall mean Colorado River System water available for use under the terms and conditions of a Delivery Agreement, a Forbearance Agreement, this ROD and Operating Guidelines issued pursuant to this ROD.
 - a. ICS created through extraordinary conservation, as provided for in **Section 10.9.E.1**, shall be referred to as “Extraordinary Conservation ICS.”
 - b. ICS created through tributary conservation, as provided for in **Section 10.9.E.2**, shall be referred to as “Tributary Conservation ICS.”
 - c. ICS created through system efficiency projects, as provided for in **Section 10.9.E.3**, shall be referred to as “System Efficiency ICS.”
 - d. ICS created through agreements with Mexico, as provided for in **Section 10.9.E.4**, shall be referred to as “Binational ICS.”
 - e. ICS created pursuant to the 2019 DCP, Exhibit 1 to the Lower Basin DCP, as provided for in **Section 10.9.E.5**, shall be referred to as DCP ICS.
21. “Law of the River” refers to the treaties, compacts, decrees, statutes, regulations, and other legal documents and agreements applicable to the allocation, appropriation, development, exportation, and management of the waters of the Basin are often referred to as the “Law of the River.” There is no single, universally agreed-upon definition of the “Law of the River,” but it is useful as a shorthand reference to describe this longstanding and complex body of legal agreements governing the Colorado River.
22. “Long-Range Operating Criteria (“LROC”)” shall mean the Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. No. 90-537), published at 35 *Federal Register* 8951 (June 10, 1970), as amended March 21, 2005.
23. “Lower Basin DCP” shall mean the Lower Basin Drought Contingency Plan Agreement authorized by Congress through the Colorado River Drought Contingency Plan Authorization Act, Pub. L. No. 116-14, 133 Stat. 850 (2019).

24. “Lower Division States” shall mean the Colorado River Basin States of Arizona, California, and Nevada.
25. “Mainstream” shall have the same meaning as defined in the Consolidated Decree.
26. “Most Probable” shall mean a modeling projection provided by Reclamation in the monthly 24-Month Study as defined in the Operating Guidelines.
27. “Operating Guidelines” shall mean the objective criteria that determine the operations of Lake Powell and Lake Mead each Operating Year.
28. “Operating Year” shall mean a Water Year (October 1 through September 30) for Lake Powell operations and a Calendar Year (January 1 through December 31) for Lake Mead operations.
29. “Preferred Alternative” shall mean the operational principles, operational sideboards and process described in the Final EIS as the basis for the Decision Framework adopted in this ROD.
30. “Reclamation” shall mean the United States Bureau of Reclamation.
31. “Record of Decision (“ROD”)” shall mean the Record of Decision issued by the Secretary for the Decision Framework for Colorado River Guidelines: Coordination Operations of Lake Powell and Lake Mead (2027–2036).
32. “Representative Preferred Alternative” refers to the set of modeling assumptions developed for modeling purposes in the Final EIS to analyze the Preferred Alternative’s operational sideboards and illustrate a potential range of impacts resulting from operating guidelines that may be adopted for each interval during the 10-year framework. These modeling assumptions do not limit future agreements nor do they preclude or predetermine other legally permissible applications of law or Secretarial authorities in particular operations.
33. “Secretary” shall mean the Secretary of the Interior, including acting through Reclamation’s Regional Directors of the Upper Colorado Basin Region or Lower Colorado River Basin Region, or other such duly authorized representative.
34. “System Conservation” shall mean Colorado River water that is conserved by a Contractor under a System Conservation Implementation Agreement and left in Lake Mead to benefit the Colorado River System.
35. “Upper Division States” shall mean the Colorado River Basin States of Colorado, New Mexico, Utah and Wyoming.
36. “Water Accounting Report” shall mean the annual *Colorado River Accounting and Water Use Report – Arizona, California, and Nevada* that includes, but is not limited to, the compilation of records in accordance with Article V of the Consolidated Decree.
37. “Water Year” shall mean October 1 through September 30.
38. “Year” shall mean calendar year.

10. 2027–2036 Decision Framework

10.1 Overview

The Decision Framework establishes the operational principles, sideboards (key thresholds and ranges for operational elements), and process that will govern development and issuance of Operating Guidelines through 2036. The Secretary will issue these Operating Guidelines as final

agency actions, subject to applicable environmental compliance, published in the Federal Register. The Operating Guidelines are anticipated to cover 2-year intervals, unless the Secretary determines a different number of years is appropriate. If consensus-based agreements are reached, a longer duration can be adopted. **The Decision Framework does not establish specific Operating Guidelines; rather, it provides the structure within which Operating Guidelines will be developed, reviewed, and periodically updated allowing for voluntary actions and consensus.** Modeling in the Final EIS that captures the sideboards, and the analysis of the potential impacts, provides environmental compliance for Operating Guidelines developed consistent with the Decision Framework.

The Decision Framework is a vehicle for continued work toward sustainable water management in the Basin. It provides continuity following the expiration of the 2007 Interim Guidelines; establishes transparency and predictability for future decision making; preserves flexibility to respond to changing hydrology and evolving Basin circumstances; facilitates incorporation of future Basin voluntary actions and consensus recommendations; and is consistent with applicable federal law.

10.2 Relationship to Operating Guidelines

Operating Guidelines are the objective criteria that determine the operations of Lake Powell and Lake Mead each year. For each operating interval, the Decision Framework will be utilized to develop and adopt Operating Guidelines in accordance with the principles and sideboards described below. Once adopted, the Operating Guidelines will be in effect until the end of the operating interval. The Operating Guidelines will be implemented through each year's Annual Operating Plan.

Operating intervals are anticipated to be of 2-year lengths, unless consensus-based agreements or other conditions warrant otherwise. During the anticipated 2-year period of implementation, the process to develop subsequent guidelines will begin. Each set of Operating Guidelines developed and adopted during the term of this Decision Framework will be subject to the principles and sideboards described below. Before adopting Operating Guidelines, the Department will conduct a review to determine the applicable environmental compliance needed for their implementation. For the first interval of Operating Guidelines, this review is documented in the Final EIS. To the extent that the Operating Guidelines fall outside the range of operational approaches and environmental impacts programmatically considered and analyzed in the Preferred Alternative, the Department will conduct any necessary NEPA analysis in compliance with applicable federal law.

The Decision Framework (principles, sideboards, and process) will remain constant through 2036, unless modified through future Federal action and appropriate environmental compliance.

10.3 Operational Principles

The Decision Framework is guided by operational principles – fundamental objectives and considerations that reflect Reclamation's mandate to protect the Colorado River System infrastructure, acknowledge the Secretary's authority to operate the system and take protective actions when necessary, and the desire to reach consensus operations whenever possible, subject to applicable law and tribal trust responsibilities. Elevating these principles ensures that Operating Guidelines adopted under the Decision Framework adhere to fundamental management priorities and provide a basis for review and reflection toward the end of each operating interval as new Operating Guidelines are developed.

1. ***Operations should be responsive to hydrology.*** The experience in the Basin of prolonged, unprecedented drought, near-constant planning and mitigation, and record-low reservoir levels demonstrates that being responsive to hydrologic conditions is critical to sustainable management of the Colorado River System. While low-runoff conditions may continue or worsen, Basin supply is highly variable; prudent management of above-average years is as important as careful planning and management for dry years. Annual operations and within-year adjustments that account for evolving supply conditions should be adopted to ensure a flexible, adaptive approach to management.
2. ***Critical Federal infrastructure must be protected through practical and deliberate operations.*** When Lake Powell is projected to fall below elevation 3,500 feet⁷ or when Lake Mead is projected to fall below elevation 1,000 feet,⁸ processes and tools will be used to manage risks to infrastructure and prevent damage to Federal facilities of regional and national importance. These elevations reflect current understanding of these facilities, but do not preclude the identification of alternate or additional critical elevations. The Department is prepared to use a range of tools, in coordination with key partners, to protect its facilities consistent with applicable Federal law. The Department also recognizes the importance of preserving the benefits of extraordinary actions and the need to balance the impacts of such actions on connected facilities and affected stakeholders.
3. ***Operating Guidelines should implement the LROC while also providing directions to address extraordinary circumstances.*** The LROC provide a basis for coordinating the operations of Lake Powell and Lake Mead, but, as was demonstrated before the adoption of the 2007 Interim Guidelines, additional specificity and objective criteria for operating under low reservoir conditions are needed to provide greater predictability to Basin stakeholders. Operating Guidelines will address this need while also providing for temporary operations to address extraordinary circumstances that are not otherwise provided for under the LROC when necessary to protect critical Federal infrastructure in accordance with applicable federal law. If such actions are temporarily adopted, they would not set precedent for subsequent Operating Guidelines.
4. ***Operating Guidelines should prioritize consensus-based recommendations.*** Collaborative processes and consensus-based operations offer the greatest opportunity for stability for the Basin. The Department will support efforts to achieve consensus agreements that appropriately provide benefits to multiple parties, that offer innovative, inclusive solutions to operational and management challenges, and that are sufficiently protective of the system. Should such agreements arise, they will be prioritized as new Operating Guidelines are developed and adopted, recognizing that it is the intent of the Secretary that agreements should not adversely impact systemwide operations. In the absence of consensus-based arrangements, the Secretary will take necessary protective actions, consistent with applicable Federal law.

⁷ Elevation 3,500 feet provides a 10-foot buffer on elevation 3,490 feet, a critical threshold described in footnote 3.

⁸ Elevation 1,000 feet provides a 50-foot buffer on elevation 950 feet, which is the elevation below which water can only be released through the intake towers, constraining both the volume of water able to be released as well as the ability to generate power. A larger buffer is used for Lake Mead than Lake Powell because Reclamation is required to deliver water orders that have already been approved. As a result, there is generally less flexibility to adjust releases from Hoover Dam than from Glen Canyon Dam.

10.4 Operational Sideboards

The Decision Framework is oriented within operational sideboards – key thresholds and ranges for operational elements that create boundaries for the development of each set of Operating Guidelines and provide a basis for environmental compliance for the duration of the Decision Framework. The sideboards defined in **Table 1** were selected to provide sufficiently broad operational ranges to support the development of innovative and flexible water management tools, accommodate future consensus recommendations, voluntary actions, and ensure the Department has the flexibility and environmental compliance to operate consistent with the operational principles given future hydrologic uncertainty.

Table 1
2027–2036 Decision Framework Operational Sideboards

Operational Element	Operational Ranges
Lower Basin Shortage Guidelines	A potential maximum of up to 3.0 maf, as needed, after appropriate consultation, to provide protection of critical infrastructure at Hoover Dam in dry hydrologic conditions as described in Section 10.6, Incorporation of Consensus Recommendations and Consultation. Consultation will occur if the projected Lake Mead elevation is < 1,000 feet to determine potential additional reductions to Lower Basin water deliveries as described in Section 10.7, Extraordinary Circumstances. The allocation of shortages will be based on applicable law, including the Consolidated Decree. Deviation from applicable law will occur only if water entitlement holders have reached voluntary arrangements.
Coordinated Reservoir Operations	5.0 maf to 12.0 maf Lake Powell water year releases to provide protection for critical infrastructure at Glen Canyon Dam, while meeting other operational objectives consistent with applicable Federal law, and sufficiently high releases necessary to prevent spill avoidance releases. Consultation will occur if the projected Lake Powell elevation is < 3,500 feet to determine potential additional actions as described in Section 10.7, Extraordinary Circumstances.
Storage and Delivery of Conserved System and Non-system Water	Lake Powell: up to 3.0 maf. Lake Mead: up to 8.0 maf (supports existing ICS, new ICS-type program, conservation pools and exchange mechanisms).
Lower Basin Surplus Guidelines	Up to 500 kaf in addition to any available surplus nearing or during flood control releases.
Additional Activities Above Lake Powell	Potential for maximum use of CRSP Upper Initial Units within their respective RODs to release additional water if needed to protect critical infrastructure. Voluntary Upper Basin contributions up to 200 kaf per year subject to hydrologic conditions.

10.5 Process for Development of Operating Guidelines

Each set of Operating Guidelines will consist of reviews, consultations with key stakeholders and agencies, and opportunities for consensus building. During the first Operating Year, implementation is the expected focus. The second Operating Year includes both implementing the issued guidelines and completing the process to develop and issue subsequent Operating Guidelines. Draft Operating Guidelines will be subject to consultation with Basin States and Basin Tribes, and other affected parties as appropriate, and Reclamation will provide the opportunity to submit comments. The Secretary will issue these Operating Guidelines as final agency actions, subject to applicable environmental compliance, published in the Federal Register. The anticipated schedule of activities and determinations over a 2-year interval is outlined in **Table 2**. Reclamation will coordinate and consult with the seven Basin States throughout the interval as well as with Basin Tribes and partner agencies, Mexico, and other interested parties during key operational milestones.

Table 2
Process to Develop Operating Guidelines Under 2027–2036 Decision Framework

Month and Operating Year (Anticipated)	Activity
August <i>preceding</i> Operating Year 1 of Operating Guidelines	• Issue Operating Guidelines for upcoming 2 years • Determine operations for Operating Year 1
August of Operating Year 1	• Determine operations for Operating Year 2
October of Operating Year 2	• Conduct review of current Operating Guidelines and develop considerations for the next set of Operating Guidelines
November of Operating Year 2	• Incorporate considerations from review of current Operating Guidelines into ongoing coordination and consultations on Operating Guidelines for upcoming interval
November – March of Operating Year 2	• Develop draft Operating Guidelines, applying operational principles and sideboards • Determine approach to applicable environmental compliance for draft Operating Guidelines
March of Operating Year 2	• Provide draft Operating Guidelines for upcoming interval
May 1 of Operating Year 2	• Consensus recommendations on upcoming Operating Guidelines due
May-June of Operating Year 2	• Finalize Operating Guidelines, perform analysis, perform necessary consultations
June of Operating Year 2	• Identify and announce upcoming Operating Guidelines to be adopted • Initial AOP consultation on next year's operations (per upcoming Operating Guidelines)
July of Operating Year 2	• Finalize environmental compliance, as appropriate, for upcoming Operating Guidelines
August 1 of Operating Year 2	• Issue upcoming Operating Guidelines as a final agency action and publish in the Federal Register
August 15 of Operating Year 2	• Determine operations for Operating Year 3

10.6 Incorporation of Consensus Recommendations and Consultation

The Decision Framework establishes the process by which the Department will develop and adopt Operating Guidelines through 2036. The Department anticipates developing guidelines at regular intervals, generally every 2 years, consistent with the operational principles and sideboards established in this Decision Framework. The Operating Guidelines adopted for each operating interval will be implemented through the AOP.

In developing subsequent Operating Guidelines, the Department will evaluate the current hydrologic and reservoir conditions, projected reservoir operations, the effectiveness of previously adopted operating guidelines, and other relevant information. The Department will consult with the Basin States, Basin Tribes, Mexico, other Federal agencies and other interested stakeholders throughout the guideline development process.

The Department will give priority consideration to consensus recommendations, should any be submitted, regarding future Operating Guidelines. Consensus recommendations that are consistent with applicable law and the Decision Framework may be incorporated, in whole or in part, into subsequent Operating Guidelines. In the absence of consensus recommendations, the Secretary will determine the Operating Guidelines consistent with the operational principles, sideboards and applicable law, and the modeling assumptions contained in the Final EIS shall not preclude or predetermine such determinations.

In the event that shortages to the Lower Division States are required in the absence of a Lower Basin agreement, the Secretary will consult with the Lower Division States and Contractors. If no agreement is reached, the Secretary will apportion shortages according to the Law of the River, and the assumptions contained in the Final EIS shall not preclude or predetermine such apportionments. The Department will also continue to work with all Basin stakeholders to maximize efforts throughout the Basin to reduce the potential for large shortage volumes.

Consultation provisions during extraordinary circumstances are described in **Section 10.7**, Extraordinary Circumstances.

10.7 Extraordinary Circumstances

Extraordinary circumstances may require temporary operational actions to protect critical Federal infrastructure or maintain the operational integrity of the Colorado River System. Such actions are intended solely to address extraordinary circumstances and shall be limited to the extent necessary to achieve their intended purpose. Extraordinary circumstances would include operations that are prudent or necessary for safety of dams, public health and safety, other emergency situations, or other anticipated or unforeseen activities arising for actual operating experience.

The Secretary has the vested authority and responsibility to operate the System through coordinated operations, including the ability to respond to exigent and emergency conditions, pursuant to applicable Federal law, the Consolidated Decree, contractual obligations and other elements of the Law of the River. The Department reserves its authorities to perform emergency or other necessary operations.

Temporary operational actions undertaken pursuant to this section shall not modify the operational principles or sideboards established by this Decision Framework, shall not amend the applicable operating guidelines, and shall not establish precedent for subsequent guideline development.

The Decision Framework establishes consultation thresholds associated with critical reservoir elevations. When projected reservoir conditions approach or fall below the consultation thresholds identified in the operational sideboards, the Secretary will coordinate and consult with the Basin States, Basin Tribes and other affected parties, as appropriate, regarding additional operational actions that may be appropriate to reduce risks to critical Federal infrastructure and maintain system reliability. During the 10-year term of this ROD, the lowest anticipated release from Glen Canyon Dam is 5.0 maf, which would only be implemented after coordination and consultation with the Basin States, Basin Tribes and other affected parties, as appropriate, to address potential actions throughout the Basin to respond to hydrologic and operational conditions. This coordination and consultation shall be promptly initiated by the Department at the earliest opportunity after any 24-Month Study shows Lake Powell declining below 3,500 feet at any time through the spring of the following year.

During the term of this ROD, whenever Lake Mead is projected to be below elevation 1,000 feet at any time during the succeeding 12-month period as projected by the Most Probable 24-Month Study, the Secretary shall coordinate and consult with the Basin States, Basin Tribes and other affected parties, as appropriate, to consider further measures that may be undertaken. Those actions are not predetermined and allow for voluntary actions and consensus. The Secretary shall implement any additional measures consistent with applicable Federal law and will take public health and safety considerations into account, and review and address any relevant information submitted to the Secretary by affected parties. In the event that shortages to the Lower Division States are required in the absence of a Lower Basin agreement, the Secretary will consult with the Lower Division States and Contractors. If no agreement is reached after consultation, the Secretary will apportion shortages according to the Law of the River, and the modeling assumptions contained in the Final EIS shall preclude or predetermine such apportionments.

Such consultations may include consideration of additional reductions in water use, adjustments to coordinated reservoir operations of Lake Powell and Lake Mead, use of the CRSP Upper Initial Units, or other operational actions.

10.8 Duration and Future Federal Action

The Decision Framework adopted by this ROD shall remain in effect for the development of Operating Guidelines through the 2036 Operating Year unless modified or superseded by subsequent Federal action.

The Department intends to develop and adopt subsequent Operating Guidelines pursuant to this Decision Framework for each successive operating interval. Each set of Operating Guidelines shall supersede the preceding Operating Guidelines upon its effective date but shall remain subject to the operational principles and sideboards established by this Decision Framework unless otherwise provided by subsequent Federal action.

Nothing in this Decision Framework precludes the Department from modifying or superseding the Decision Framework prior to 2036. Should consensus proposals on long-term operations be developed, or should changing circumstances warrant a different approach, the Secretary may modify or replace this Decision Framework through appropriate Federal action and any required environmental compliance.

10.9 Incorporation of Provisions from Previous Operational Decisions and Additional Provisions

This ROD contains the provisions that are both carried forward from previous operational decisions (the 2007 Interim Guidelines and the Lower Basin DCP) as well as new provisions that will apply to each set of Operating Guidelines issued pursuant to this ROD during the term of 2027–2036.

A. Forbearance

1. Role of Forbearance Agreements within the Context of the Law of the River and Relationship to ICS and System Conservation

For the purposes of this ROD and associated Operating Guidelines, the term “forbearance agreements” refers to parties agreeing to forgo (or not exercise) their rights to Colorado River water for the purposes of delivering or exchanging ICS to Contractors with established ICS accounts. In any such agreements, the party agrees to “forbear” or refrain from exercising its right to this Colorado River water under the specified terms and conditions of the applicable agreement. Through such agreements, increased flexibility of Colorado River water management can be achieved – resulting in greater conservation of water than would otherwise be accomplished.

For the purpose of increasing the efficiency, flexibility, and certainty of Colorado River management and thereby helping satisfy the current and projected regional water demands, the Secretary, during the term of this ROD, may review and determine that it is prudent and desirable to promulgate a procedural framework in the Operating Guidelines issued under this ROD for facilitating the creation and delivery of ICS within the Lower Basin.

In order to allow for management flexibility, the Lower Division States may recommend an operational program to be established in the Operating Guidelines under this ROD for the creation and delivery of ICS. In furtherance of this recommendation, numerous major water users within the Lower Basin have identified their willingness, under specified circumstances, to participate in such an operational program. Should this program be established, these parties will establish a “Forbearance Agreement” for each set of Operating Guidelines for consideration by the Secretary as a necessary element to enable implementation of the operations contemplated by the Lower Division States.

Through issuance and implementation of this ROD, the Secretary will only approve the creation, delivery and use of ICS, if approved as part of an associated Operating Guidelines during the term of this ROD, in a manner that is fully consistent with the provisions of the Consolidated Decree, including Articles II(B)(2) and II(B)(6) therein, and consistent with a Lower Division State Forbearance Agreement. The Secretary will require forbearance by the appropriate Contractors in each Lower Division State for implementation of this element of these Guidelines (regarding ICS). If, in the opinion of the Secretary, the appropriate Contractors unreasonably withhold forbearance, the Secretary may, after consultation with the Lower Division States, modify the Operating Guidelines. Moreover, the Secretary will ensure that implementation of the ICS mechanism does not infringe on the rights of any third party who is a Contractor and who is not a party to the Forbearance Agreement.

Further, under this ROD, forbearance for the creation of System Conservation water and creation and delivery of water from the Federal pool may be developed as part of the Operating Guidelines associated with this ROD.

2. Monitoring Implementation

Under this ROD and associated Operating Guidelines, Colorado River water will continue to be allocated for use among the Lower Division States in a manner consistent with the provisions of the Consolidated Decree. **It is expected that Lower Division States and individual Contractors for Colorado River water have or will adopt arrangements that will affect utilization of Colorado River water during the term of the ROD and associated Operating Guidelines.** It is expected that water orders from Colorado River Contractors will be submitted to reflect forbearance arrangements by Lower Division States and individual Contractors. The Secretary will deliver Colorado River water to Contractors in a manner consistent with these arrangements, provided that any such arrangements are consistent with the BCPA, the Consolidated Decree and do not infringe on the rights of third parties. ICS will be delivered according to the applicable sections of Operating Guidelines issued pursuant to this ROD and a Delivery Agreement.

B. Delivery Agreement

Article II(B)(5) of the Consolidated Decree in *Arizona v. California* states that mainstream Colorado River water shall be released or delivered to water users in Arizona, California, and Nevada “only pursuant to valid contracts therefore made with such users by the Secretary, pursuant to Section 5 of the Boulder Canyon Project Act or any other applicable federal statute.” Section 5 of the Boulder Canyon Project Act authorizes the Secretary to enter into such contracts. The Secretary may also enter into contracts with tribes in Arizona, California, and Nevada with a water entitlement under the Consolidated Decree or Indian Water Rights Settlement.

Numerous Contractors in Arizona, California, and Nevada now hold contracts which entitle them to the delivery of Colorado River water under the circumstances and in the priorities specified in the individual contracts. Contracts entered into prior to the adoption of this ROD and associated Operating Guidelines do not, however, expressly address circumstances in which ICS might be created or delivered.

To ensure the requirements of Section 5 of the Boulder Canyon Project Act and Article II(B)(5) of the Consolidated Decree are complied with, and to reduce the possibility of ambiguity, the Secretary anticipates amending existing delivery contracts or entering into delivery contracts with any person or persons intending to create ICS as described in this ROD and the associated Operating Guidelines. Such contracts are expected to address the requirements set forth in this ROD and associated Operating Guidelines for the approval of ICS plans, the certification and verification of the ICS created under the plans, the ordering and delivery of ICS, the accounting for ICS in the annual report filed with the U.S. Supreme Court in accordance with Article V of the Consolidated Decree, and such other matters as may bear on the delivery of the ICS, as for example the point of delivery and place of use, if not already provided for under existing contracts.

The Secretary also anticipates entering into delivery contracts for the creation and delivery of Federal pool water during term of the ROD consistent with the associated Operating Guidelines.

The Secretary will continue to administer DSS in accordance with the delivery contracts established under the 2007 Interim Guidelines through the term of this ROD.

C. *Intentionally Created Surplus*

1. Findings

ICS may be created through projects that create water system efficiency or extraordinary conservation or tributary conservation of non-Colorado River System water into the mainstream. ICS is consistent with the concept that entities may take actions to augment storage of water in the Lower Basin. The ICS shall be delivered to the Contractor that created it pursuant to both Articles II(B)(2) and II(B)(6) of the Consolidated Decree and Forbearance Agreements. Implementation ICS provisions within this ROD and/or under Operating Guidelines issued pursuant to this ROD is conditioned upon execution of Forbearance Agreements and Delivery Agreements that may be developed during the term of this ROD.

2. Purposes

The primary purposes of ICS are to: (a) encourage the efficient use and management of Colorado River water; and to increase the water supply in Colorado River System reservoirs, through the creation, delivery and use of ICS; (b) help minimize or avoid shortages to water users in the Lower Basin; (c) benefit storage of water in and surface elevations in Lake Mead; (d) subject to Operating Guidelines that may be issued under this ROD, provide benefits to storage of water and surface elevations in Lake Powell; and (e) assure any Contractor that invests in conservation or augmentation to create ICS that no other Contractor will claim the ICS created by the Contractor pursuant to an approved plan by the Secretary.

3. Quantities

The maximum quantities of Extraordinary Conservation ICS that may be accumulated in all ICS Accounts, at any time, during the term of this ROD are limited to the amounts described in the Operating Guidelines. The maximum quantities of Extraordinary Conservation ICS that may be created and/or delivered in any given year will be subject to Operating Guidelines issued pursuant to this ROD.

D. *ICS Exhibits*

ICS Exhibits established in the 2007 Lower Colorado River Basin ICS Forbearance Agreement⁹ and the Lower Basin DCP will be updated and re-established through Operating Guidelines issued from this ROD. A Contractor may only create ICS through an ICS Exhibit that has been approved by the Secretary.

⁹ Pursuant to Section XI.G.8.B.2 of the 2007 Interim Guidelines, Exhibit A to the 2007 Lower Colorado River Basin ICS Forbearance Agreement - Virgin and Muddy River Tributary Conservation, ICS Project, is in effect through December 31, 2057.

E. Categories of ICS

1. Extraordinary Conservation ICS

A Contractor may create Extraordinary Conservation ICS with an approved ICS Exhibit. Examples of current ICS Exhibits allow for creation of ICS through the following activities:

- Fallowing of land that is, historically was, and otherwise would have been irrigated in the next Year.
- Agricultural efficiency programs that reduce the consumptive use of Mainstream water.
- Desalination programs in which the desalinated water is used in lieu of Mainstream water.
- Municipal efficiency or wastewater reuse programs that reduce the consumptive use of Mainstream water.
- Tributary Conservation ICS created and not delivered in the Year created.

2. Tributary Conservation ICS

A Contractor may create Tributary Conservation ICS by purchasing documented water rights on Colorado River System tributaries within the Contractor's State if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in **Section 10.9.H**. Any Tributary Conservation ICS not delivered pursuant to applicable provisions for the delivery of ICS or deducted pursuant to system assessments provisions in Operating Guidelines issued pursuant to this ROD, in the Year it was created, will, at the beginning of the following Year, be converted to Extraordinary Conservation ICS and will thereafter be subject to all provisions applicable to Extraordinary Conservation ICS. Tributary Conservation ICS may be delivered for Domestic Use only. Creation and delivery of Tributary Conservation ICS shall be consistent with Section XI.G.3 of the 2007 Interim Guidelines. These provisions remain in place until December 31, 2057.

3. System Efficiency ICS

A Contractor may make contributions of capital to the Secretary for use in projects designed to realize system efficiencies that save water that would otherwise be lost from the Mainstream in the United States. An amount of water equal to a portion of the water conserved would be made available to contributing Contractor(s) by the Secretary as System Efficiency ICS. System efficiency projects are intended only to provide temporary water supplies. System Efficiency ICS will be delivered to the contributing Contractor(s) on a schedule of annual deliveries as provided in an exhibit to a Forbearance Agreement and Delivery Agreement. The Secretary may identify potential system efficiency projects, terms for capital participation in such projects, and types and amounts of benefits the Secretary could provide in consideration of non-federal capital contributions to system efficiency projects, including identification of a portion of the water saved by such projects.

4. Binational ICS

ICS created pursuant to a minute to the 1944 Water Treaty and transferred from Mexico to a US Contractor's ICS Account.

5. Drought Contingency Plan (DCP) ICS

ICS created pursuant to Exhibit 1 of the Lower Basin DCP.

6. Additional Categories of ICS

Nothing in this ROD shall preclude the development of additional categories of ICS, subject to Secretarial review and approval and the applicable forbearance.

F. Creation of ICS

Provisions regarding the creation of ICS will be established through the Operating Guidelines issued pursuant to this ROD.

G. Delivery of ICS

The Secretary shall deliver ICS in accordance with applicable law and the following conditions:

1. In accordance with the 2007 Interim Guidelines and the 2019 Lower Basin DCP, Extraordinary Conservation ICS, System Efficiency ICS, and Binational ICS may be delivered through 2036. The delivery of ICS shall be made consistent with the associated Operating Guidelines and other applicable agreements and may be extended beyond 2036.
2. Delivery of DCP ICS shall be done in accordance with Section III.F.4 of Exhibit 1 to the Lower Basin DCP. These provisions remain in place through December 31, 2057.
3. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding ICS. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of ICS shall be maintained and open to inspection by the Secretary and by any Contractor or Basin State for 5 years after the creation of such ICS.
4. The existence of Forbearance Agreements necessary to bring the delivery of the ICS into compliance with Articles II(B)(2) and II(B)(6) of the Consolidated Decree.
5. A Contractor may request mid-Year modification(s) to the amount of ICS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of the ROD and the Operating Guidelines.
6. Additional provisions regarding the delivery of ICS, including but not limited to the total volume of ICS that may be delivered to each State or in total to the Lower Division States in a Year and any ICS delivery restrictions that may be necessary to protect critical elevations at Lake Mead, during this period will be established through the Operating Guidelines issued pursuant to this ROD.

H. Accounting of ICS

The Secretary shall annually account for ICS in accordance with the following:

1. Unless modified in the Operating Guidelines, the quantity of ICS remaining in an ICS Account at the end of each Year shall be diminished by annual evaporation losses of 3 percent. Losses shall be applied annually to the end-of-the-Year balance of ICS beginning in the Year after the ICS is created and continuing until no ICS remains in Lake Mead. This provision includes DCP ICS but excludes System Efficiency ICS created pursuant to the 2007 Forbearance Agreement Exhibit C - Drop 2 Reservoir System Efficiency Project.

2. ICS from a project within a State may be credited or transferred to the ICS Account of a different Contractor within that State that has funded or implemented the project creating ICS, or to the ICS Account of a Contractor within the same state as the funding entity and project and with written agreement of the funding entity.
3. Each Year the Water Accounting Report will include ICS Account balance information for each Contractor and shall address ICS creation, deliveries, amounts no longer available for delivery due to releases for flood control purposes, deductions applied to volumes of ICS created, deductions due to annual evaporation losses, any amounts of ICS converted to Extraordinary Conservation ICS, any ICS transferred and ICS remaining available for delivery. Accounting shall be done in accordance with this ROD and the applicable Operating Guidelines.
4. If the Secretary releases water for flood control purposes, Extraordinary Conservation ICS accumulated in ICS Accounts shall be reduced by the amount of water released for flood control purposes on an acre-foot for acre-foot basis until no Extraordinary Conservation ICS remains. The reductions to the ICS Accounts shall be shared on a pro-rata basis among all Contractors that have accumulated Extraordinary Conservation ICS.

Should Operating Guidelines contain provisions for the creation of ICS, the following accounting provisions shall apply:

5. A Contractor shall submit for the Secretary's review and verification, appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of ICS created and that the method of creation was consistent with the Contractor's approved ICS plan, a Forbearance Agreement, and a Delivery Agreement. Such information shall be submitted in the Year following the creation of the ICS.
6. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to **Section 10.9.H.5**, and provide a final written decision to the Contractor regarding the amount of ICS created. The results of such final written decisions shall be made available to the public through publication of the Water Accounting Report and other appropriate means. A Contractor and any party to an applicable Forbearance Agreement may appeal the Regional Director's verification decision first to the Lower Colorado Regional Director and then to the Secretary; and through judicial processes.

I. Developed Shortage Supply

During a Year when the Secretary has determined a Shortage Condition, the Secretary shall deliver Developed Shortage Supply available in a Contractor's DSS Account at the request of the Contractor, subject to the provisions in Section XI.G.4 of the 2007 Interim Guidelines. These provisions remain in place through December 31, 2057.

J. Establishment of a Federal Pool

The operational sideboards in the Decision Framework provide for the establishment of a Federal pool for up to 1.0 maf in Lake Mead. Upon the effective date of this ROD the Secretary is establishing a Federal pool for Federally determined purposes, including meeting Federal firming or other Federal delivery obligations pursuant to Congressionally authorized Indian water rights settlements and providing limited offsetting of tribal water shortages as well as protecting Federal infrastructure. The Secretary may acquire, subject to applicable law, water for the pool through multiple potential mechanisms involving control or acquisition of conserved consumptive use water, which includes but is not limited to ICS. Operation of the pool would be consistent with the applicable Operating Guidelines. For each operating interval, the Secretary will define and describe the operations of the pool, including but not limited to continuing or amending prior guidelines' provisions. The Federal pool is anticipated to be called the Federally Managed Water Resources Pool.

K. Inadvertent Overruns

The Secretary will manage water use in the Lower Basin to ensure overruns do not occur during Shortage Conditions. An inadvertent overrun is Colorado River water diverted, pumped or received by an entitlement holder of the Lower Division States that is in excess of the water user's annual approved water order or water entitlement due to circumstances outside the users control—for example, a change in U.S. Geological Survey gage records that occurs after the end of the calendar year. Should an overrun unintentionally occur, e.g. from a gage error or other corrections identified in December or after the end of the Calendar Year in which the overrun occurs, as determined during development of the Water Accounting Report, the Secretary will require payback in the same year the Water Accounting Report is published. The Secretary, in consultation with the Lower Division States, will develop a plan to address inadvertent overruns during sustained drought conditions prior to the issuance of Operating Guidelines for the second operating interval.

10.10 Relationship with Existing Law

Operating Guidelines issued pursuant to this ROD are not intended to, and do not:

1. guarantee or assure any water user a firm supply for any specified period;
2. change or expand existing authorities under applicable Federal law, except as specifically provided herein with respect to determinations under the LROC and administration of water supplies during the effective period of this Decision Framework;
3. address intrastate storage or intrastate distribution of water, except as may be specifically provided by Lower Division States and individual Contractors for Colorado River water who may adopt arrangements that will affect utilization of Colorado River water during the effective period of this Decision Framework;
4. change the apportionments made for use within individual States, or in any way impair or impede the right of the Upper Basin to consumptively use water available to that Basin under the Colorado River Compact;
5. affect any obligation of any Upper Division state under the Colorado River Compact;
6. affect any right of any State or of the United States under Section. 14 of the Colorado River Storage Project Act of 1956 (70 Stat. 105); Section. 601(c) of the Colorado River Basin

Project Act of 1968 (82 Stat. 885); the California Limitation Act (Act of March 4, 1929; Ch. 16, 48th Sess.); or any other provision of applicable Federal law;

7. affect the rights of any holder of present perfected rights or reserved rights, which rights shall be satisfied within the apportionment of the State within which the use is made, and in the Lower Basin, in accordance with the Consolidated Decree;
8. constitute an interpretation or application of the 1944 Water Treaty or represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed Federal action and implementation of the 1944 Water Treaty with Mexico through the IBWC in consultation with the Department of State; or
9. preclude the ability to develop opportunities for conservation, augmentation, demand management, or other water management strategies (such as intrastate and interstate exchanges or transfers), subject to necessary agreements and environmental compliance.

10.11 Authority and Operations under the Decision Framework

This Decision Framework and any Operating Guidelines issued pursuant to this Decision Framework are issued pursuant to the authority vested in the Secretary by Federal law, including the Boulder Canyon Project Act of 1928 (28 Stat. 1057), the Colorado River Storage Project Act of 1956 (70 Stat. 105), and the Consolidated Decree issued by the U.S. Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006) and shall be used to implement Articles II and III of the Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. No. 90-537), as amended.

The Secretary retains full legal authority to ensure ongoing operations of Colorado River facilities, including operational actions taken to address extraordinary circumstances to ensure protection of critical Federal infrastructure and continuous operational reliability of such facilities.

The Secretary recognizes that differences exist with respect to certain provisions contained in the Law of River and the proper application of those provisions. The terms of this Decision Framework, and any Operating Guidelines issued pursuant to this Decision Framework shall not represent interpretations of existing law by the Secretary or assert any authority for the Secretary to deviate from the Law of the River, nor predetermine in any manner the means of operation that the Secretary may adopt following this Decision Framework. Secretarial actions pursuant to any Operating Guidelines issued pursuant to the Decision Framework shall not prejudice the position or interests of either the Upper or Lower Division States, or any Colorado River Basin State, or Basin Tribe, or Contractor, with respect to storage or deliveries of water pursuant to applicable Federal law, either during or after the duration of the Decision Framework.

The Secretary acknowledges that any Basin State or Basin Tribe or Contractor's cooperation with, consent to, or failure to object to this Decision Framework or any associated Operating Guidelines does not constitute its waiver of any right, claim, or defense, nor prevent them from later asserting any right, claim or defense related to the issuance of operating guidelines under this Decision Framework. Neither this Decision Framework, nor any Operating Guidelines issued under this Decision Framework, nor any implementing agreements impede any Basin State's or Basin Tribe's or Contractor's ability to bring any action to enforce compliance with the Law of the River or any right, claim or defense related to the issuance of this Decision Framework or any Operating Guidelines issued hereunder.



United States Department of the Interior

OFFICE OF THE SECRETARY
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Operating Guidelines

Colorado River Guidelines for Coordinated Operations of Lake Powell and Lake Mead Operating Years 2027 and 2028

August 2026

Recommending Official:

David M. Palumbo
Deputy Commissioner, Operations, Bureau of Reclamation

08-21-2026

Date

Approved:

Doug Burgum
Secretary of the Interior

August 21st, 2026

Date

Operating Guidelines

Colorado River Guidelines for Coordinated Operations of Lake Powell and Lake Mead Operating Years 2027 and 2028

1. Purpose

The Colorado River Guidelines for Coordinated Operations of Lake Powell and Lake Mead Operating Years 2027 and 2028 (2027–2028 Operating Guidelines) establish operating criteria applicable to Operating Years 2027 and 2028 (the “Effective Period”). These 2027–2028 Operating Guidelines are a final agency action issued pursuant to the Record of Decision adopted by the Secretary of the Interior (Secretary) for the Decision Framework for Colorado River Guidelines: Coordinated Operations of Lake Powell and Lake Mead (2027–2036) (ROD).

The 2027–2028 Operating Guidelines are for Operating Years 2027 and 2028 only and are not intended to represent a long-term operational strategy. The Department is establishing these guidelines at a time of historic low storage conditions in Lake Powell and Lake Mead and with significant hydrologic risk facing the system should low runoff conditions continue. It is against this backdrop of hydrologic risk and lack of long-term consensus that Reclamation has prepared these 2027–2028 Operating Guidelines. These 2027–2028 Operating Guidelines are not and shall not be construed to create a precedent for future operations as described in Section 10.11 of the ROD.

These 2027–2028 Operating Guidelines contemplate actions that rely upon necessary implementing and parallel agreements as described in Section 5.9. Where necessary parties do not reach consensus on proposed operational measures or agreements, the Secretary will proceed consistent with applicable Federal law, the 2006 Consolidated Decree of the U.S. Supreme Court in *Arizona v. California* (Consolidated Decree), the Law of the River, and all other governing statutes, regulations, and contractual obligations necessary to fulfill the Secretary’s statutory responsibilities, protect Federal interests, and ensure continued system operations. The absence of such agreements shall not impair, delay, or otherwise limit the Secretary’s authority to implement operations in 2027 and 2028.

The Department of the Interior (Department) intends to implement the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Long-Range Operating Criteria or LROC) through these 2027–2028 Operating Guidelines and implemented through the Annual Operating Plan for Colorado River Reservoirs (AOP). These 2027–2028 Operating Guidelines also provide for temporary operational actions that are not otherwise provided for under the LROC when necessary to protect critical Federal infrastructure during extraordinary circumstances, consistent with applicable Federal law.

2. Process to Develop Guidelines

These 2027–2028 Operating Guidelines were developed pursuant to the ROD and incorporate operational elements based on input provided by the Basin States, Basin Tribes, and other interested parties.

Further, these 2027–2028 Operating Guidelines were developed and reflect ongoing discussions regarding consensus arrangements by the Basin States for 2027 and 2028 which would be supported by implementing and parallel agreements that will facilitate water management tools such as: Lower Basin shortage sharing, forbearance, conservation efforts, releases of additional water from the Colorado River Storage Project (CRSP) Upper Initial Units – specific reservoirs above Lake Powell pursuant to Section 602 of the Colorado River Basin Project Act – to increase the elevation at Lake Powell to protect critical Federal infrastructure.

3. Effective Period

These 2027–2028 Operating Guidelines shall become effective upon (1) execution by the Secretary and (2) execution of the necessary implementing and parallel agreements, as described in **Section 5.9**. Absent such implementing and parallel agreements in (2), the Secretary will proceed as described in **Sections 5.2, 5.3, and 5.4**, consistent with applicable Federal law, the Consolidated Decree, the Law of the River, and all other governing statutes, regulations, and contractual obligations necessary to fulfill the Secretary’s statutory responsibilities, protect Federal interests, and ensure continued system operations. Once effective, these 2027–2028 Operating Guidelines shall govern the operation of Lake Powell and Lake Mead for the 2027 and 2028 Operating Years, unless modified or superseded by subsequent action of the Secretary pursuant to the provisions herein. Further, these 2027–2028 Operating Guidelines could be superseded during the Effective Period if consensus operating guidelines, including among the Basin States and the Secretary, are reached.

4. Definitions

Definitions are included in the ROD and are incorporated by reference into these 2027–2028 Operating Guidelines. Additional definitions specific to these 2027–2028 Operating Guidelines are below.

1. “2027–2028 Operating Guidelines” shall mean the Colorado River Guidelines for Coordinated Operations of Lake Powell and Lake Mead for Operating Years 2027 and 2028.
2. “Exhibit Run” shall refer to modeling performed in addition to the official modeling runs, which are used for official operational determinations. Exhibit Runs reflect unofficial dam operations or sensitivity analysis based on hypothetical conditions or dam operations.
3. “Lower Colorado Regional Director” shall mean the Regional Director of the Lower Colorado River Basin Region of the Bureau of Reclamation (Reclamation).
4. “Most Probable” shall mean a modeling projection provided by Reclamation in the monthly 24-Month Study, which simulates conditions using a median (50th percentile exceedance) inflow scenario.

5. Guidelines for the Coordinated Operation of Lake Powell and Lake Mead for Operating Years 2027–2028

For Operating Years 2027 and 2028, the Secretary shall coordinate the operations of Lake Powell and Lake Mead according to the strategy set forth in this **Section 5**.

The Secretary will base annual determinations regarding the operations on these 2027–2028 Operating Guidelines unless extraordinary circumstances exist as described in **Section 5.1.D**. The Secretary retains full legal authority to ensure ongoing operations of Colorado River facilities, including operational actions taken to address extraordinary circumstances in order to ensure protection of critical Federal infrastructure and continuous operational reliability of such facilities.

The Department is establishing these 2027–2028 Operating Guidelines at a time of historic low storage conditions in Lake Powell and Lake Mead, with combined storage at an all-time low, and with significant hydrologic risk facing the system should low runoff conditions continue. The Department recognizes the continued importance of Lake Powell operations that achieve the objective stated in Article II of the LROC: “the objective shall be to maintain a minimum release of water from Lake Powell of 8.23 maf for that year.” However, the Department also recognizes that achievement of this objective may not be possible under the hydrologic and operational conditions that exist at the time of adoption of these 2027–2028 Operating Guidelines, including low reservoir elevations, declining river flows, and the need to protect operational reliability. The coordinated operations described in these 2027–2028 Operating Guidelines are intended to account for these considerations and are intended to minimize adverse operational effects in the Upper and Lower Basins while preserving the Secretary’s ability to respond to changing hydrologic conditions.

5.1 Operation of Lake Powell for Operating Years 2027–2028

These operations are designed to protect a minimum Lake Powell elevation of 3,500 feet by initially seeking to maintain a minimum elevation of 3,510 feet. This provides an operational buffer and provides additional flexibility in recognition of the operational risks associated with sustained operations below elevation 3,490 feet, at which releases from Glen Canyon Dam can only pass through the river outlet works. As described in Section 3.1 of the ROD, there are infrastructure concerns associated with the uncertainty of extended operations through the river outlet works as the sole means of sustained water releases from Glen Canyon Dam that could compromise the reliability and operational flexibility of Glen Canyon Dam and affect the ability to meet critical downstream water supply needs. There are additional impacts to hydropower associated with operating below 3,490 feet, as this is the minimum power pool.

These operations involve various consultations and coordination with the Basin States, Basin Tribes and other affected parties. These consultations are described in **Section 5.7.B**.

The Most Probable August 24-Month Study projections of the October 1 Lake Powell elevation, for the following Water Year, shall be used to determine the applicable operational range for the coordinated operation of Lake Powell and Lake Mead as described below.

Releases from Lake Powell for coordinated operations will be consistent with the provisions of the 2016 Glen Canyon Dam Long-Term Experimental and Management Plan Environmental Impact Statement and Record of Decision and the 2024 Glen Canyon Dam Long-Term Experimental and Management Plan Supplemental Environmental Impact Statement and Record of Decision.

As described below, determinations in Operating Years 2027 and 2028 throughout this section will be based on the current month's Most Probable 24-Month Study projections of Lake Powell elevations. In each range, the Lake Powell Water Year release could be reduced to a minimum of 6.0 million acre-feet (maf) if necessary to maintain elevation 3,510 feet. Releases may be further reduced as described in **Section 5.1.D**, should Lake Powell be projected to reach elevations below 3,500 feet. Any such adjustments shall not require re-initiation of the AOP consultation process. **Sections 5.1.A – 5.1.D** describe the months and criteria for determining such adjustments.

A. Upper Elevation Range

1. In Water Years when the projected October 1 Lake Powell elevation is at or above 3,565 feet, the initial Water Year release will be determined by performing an incremental modeling approach using Exhibit Runs. Reclamation shall first evaluate a Water Year release of 8.23 maf and, if necessary, successively evaluate releases of 8.0 maf and 7.5 maf. The initial Water Year release shall be the first release evaluated that is projected to maintain a minimum Lake Powell elevation of 3,510 feet throughout the Water Year.
2. Beginning in October, and continuing each month through April, if the projected Lake Powell elevation is less than 3,510 feet, adjust Lake Powell releases downward as needed to no less than 6.0 maf, such that when combined with additional releases from the CRSP Upper Initial Units, a minimum of 3,510 feet is maintained through March of the following Water Year.
3. Should Lake Powell be projected to reach elevations below 3,500 feet, Reclamation shall consider and consult as described in **Section 5.1.D** on additional actions that may be necessary.
4. Beginning in October, and continuing each month through April, if the projected Lake Powell elevation at the end of the Water Year is greater than 3,565 feet, adjust releases upward, such that half the difference in volume from the projected September 30 Lake Powell storage at elevation 3,565 feet is added to the release.

B. Mid-Elevation Range

1. In Water Years when the projected October 1 Lake Powell elevation is below 3,565 feet and at or above 3,540 feet, the initial Water Year release will be determined by performing an incremental modeling approach using Exhibit Runs. Reclamation shall first evaluate a Water Year release of 8.0 maf and, if necessary, shall successively evaluate releases of 7.5 maf and 7.0 maf. The initial Water Year release shall be the first release evaluated that is projected to maintain a minimum Lake Powell elevation of 3,510 feet throughout the Water Year.
2. Beginning in October, and continuing each month through April, if the projected Lake Powell elevation is less than 3,510 feet, adjust releases downward as needed to no less than 6.0 maf, such that when combined with additional releases from the CRSP Upper Initial Units, a minimum of 3,510 feet is maintained through March of the following Water Year.
3. Should Lake Powell be projected to reach elevations below 3,500 feet, Reclamation shall consider and consult as described in **Section 5.1.D** on additional actions that may be necessary.
4. Beginning in October, and continuing each month through April, if the projected Lake Powell elevation at the end of the Water Year is greater than 3,565 feet, adjust the Lake Powell releases upward, such that half the difference in volume from the projected

September 30 Lake Powell storage at elevation 3,565 is added to the release, up to 8.23 maf or greater.

C. Low Elevation Infrastructure Protection Range

1. In Water Years when the projected October 1 Lake Powell elevation is below 3,540 feet, the initial Water Year release will be determined by performing a modeling approach using an Exhibit Run. Reclamation shall first assume a release of 7.0 maf. If Lake Powell is projected to remain above 3,510 feet during the Water Year, begin the year with an initial release of 7.0 maf if conditions allow and while preserving the flexibility to make reductions under **Section 5.1.C.1.a** and proceed as follows:
 - a. Beginning in October, and continuing each month through April, if the projected Lake Powell elevation is less than 3,510 feet, adjust Lake Powell releases downward as needed to no less than 6.0 maf, such that when combined with additional releases from the CRSP Upper Initial Units, a minimum of 3,510 feet is maintained through March of the following Water Year.
 - b. Beginning in October, and continuing each month through April, if the projected Lake Powell elevation at the end of the Water Year is greater than 3,565 feet, adjust releases upward, such that half the difference in volume from the projected September 30 Lake Powell storage at elevation 3,565 feet is added to the release.
2. If the Exhibit Run of the August 24-Month Study assuming a release of 7.0 maf (from **Section 5.1.C.1**) results in Lake Powell elevation projected to decline below 3,510 feet at any time during the Water Year, defer the determination of the Water Year release until April and proceed as follows in **Table 1** below.

Table 1
Low Elevation Infrastructure Protection Range Determination Table

Steps Reclamation will Follow to Determine Water Year Release in the Low Elevation Infrastructure Protection Range for 2027–2028 Operating Guidelines	
(when Lake Powell elevation is less than 3,510 feet in the August 24-Month Study Exhibit Run)	
Aug	State that the expected Water Year release will be between 6.0 and 7.0 maf Determine monthly release pattern October-April that results in maintaining a minimum target elevation of 3,510 feet in March of the following year - Perform at least 2 "official" August 24-Month Studies - o Runs assume a Water Year release of 6.0 maf and 7.0 maf - o All runs include the same release pattern Oct-Apr that maintains a minimum target elevation of 3,510 feet in March of the following year
Sept-Dec	Perform the same 2 "official" 24-Month Studies each month as described above (may include adjustments to the October-April monthly release pattern if needed to maintain a target of 3,510 feet)
Jan-Mar	Continue potential adjustment of Lake Powell monthly releases per above but begin including assumptions regarding use of the CRSP Upper Initial Units for May of the current year through April of the following year, into the 6.0 maf run only, as appropriate

Steps Reclamation will Follow to Determine Water Year Release in the Low Elevation Infrastructure Protection Range for 2027–2028 Operating Guidelines

(when Lake Powell elevation is less than 3,510 feet in the August 24-Month Study Exhibit Run)

Apr	Determine Water Year release according to the following steps: 1. Evaluate the projected Lake Powell elevation in March of the following year assuming a 7.0 maf release. For the purpose of Water Year 2027 and 2028 only, this will be considered as the baseline for determining whether releases should be less than 7.0 maf, and additional releases from CRSP Upper Initial Units should be considered. If the March projected elevation is $\geq 3,510$ feet, - o Set the Water Year release to 7.0 maf - o No releases from the CRSP Upper Initial Units will be made for infrastructure protection purposes 2. If the March projected elevation is $< 3,510$ feet, determine the volume needed to maintain a minimum of 3,510 feet in March of the following year. As practicable, Reclamation will determine the reduced Lake Powell releases and CRSP Upper Initial Unit actions required contemporaneously (subject to hydrologic conditions), considering historical consultations and volumetric reductions in Lake Powell Releases and CRSP Upper Initial Unit releases. Past actions have included 1) a planned 500 thousand acre-feet (kaf) CRSP Upper Initial Unit release and recovery coupled with a 480 kaf reduction in the Lake Powell release and 2) a planned 660-1,000 kaf CRSP Upper Initial Unit release and recovery coupled with a 1,480 kaf reduction in the Lake Powell release. 3. Reclamation will consult with the Basin States in the event of any of the following conditions: a. if the volume needed to protect the critical elevation of 3,500 feet in March of the following year is > 2.0 maf; or b. if any Basin State believes there is inequity between the volume available for release from the CRSP Upper Initial Units and the Lake Powell release reductions, it may request consultation; or c. if a Lake Powell release of < 6.0 maf is required to protect 3,500 feet in March of the following year; or d. if the Lake Powell elevation at the end of the water year is projected to be greater than 3,565 feet. 4. When operating under 2 or 3 above, Reclamation will consider any other tools available that can be used to maintain 3,510 feet
May	Publish 24-Month Study with selected Water Year release and any projected releases from the CRSP Upper Initial Units for May of the current year through April of the following year (adjusted operations could begin in April if conditions warrant)

3. Should Lake Powell be projected to reach elevations below 3,500 feet, see **Section 5.1.D** to consult on additional actions that may be necessary.

D. Extraordinary Circumstances

1. As identified in Section 10.7 of the ROD, the highest and lowest contemplated release from Glen Canyon Dam is 12.0 maf and 5.0 maf, respectively. Based on any 24-Month Study, if

Lake Powell is projected to decline below 3,500 feet at any time from the current month through March of the following year, the Secretary will consult and coordinate with the Basin States and Basin Tribes, and other affected parties as appropriate, to consider potential actions throughout the Basin to respond to and address hydrologic and operational conditions.

5.2 Drought Operations of the Colorado River Storage Project Act Upper Initial Units for Operating Years 2027–2028

In Operating Years 2027 and 2028, the Secretary will conduct drought operations, in consideration of releases and recovery, at the CRSP Upper Initial Units pursuant to the process outlined in an agreement concerning drought operations at these facilities and as referenced in this section. The provisions of this section assume that the Upper Division States reach agreement. If such agreement is not reached by that date, the Secretary will conduct drought operations at CRSP Upper Initial Units consistent with existing authorities.

5.3 Operation of Lake Mead for Operating Years 2027–2028

As implemented in the AOPs for 2027 and 2028, the Secretary shall, in August, make the following determination for Lake Mead operation for the following Calendar Year as described in this **Section 5.3**.

These operations provide water users in the Lower Division States with water supply determinations for Calendar Years 2027 and 2028, with the potential for consultation at high and low water elevations at Lake Mead. This provides additional flexibility in recognition of the operational risks associated with operations below elevation 950 feet. Below elevation 950 feet, Lake Mead releases are restricted to only the upper penstock outlet works, which would reduce operational flexibility and severely constrain releases, and below this elevation hydropower can no longer be produced.

A. Shortage Condition Determination and Lower Basin Reductions

1. The Secretary will determine that a Shortage Condition exists for the applicable Year for purposes of the apportionment of Colorado River water among the Lower Division States and will apportion 6.25 maf for consumptive use in the Lower Division States. This represents a reduction of 1.25 maf from the quantity apportioned to the Lower Division States under a Normal Condition.
2. Of the 6.25 maf that shall be apportioned each calendar year for consumptive use in the Lower Division States of which 2.04 maf shall be apportioned for use in Arizona, 3.96 maf shall be apportioned for use in California and 250,000 acre-feet (af) shall be apportioned for use in Nevada, reflecting reductions of 760,000 af in Arizona, 440,000 af in California, and 50,000 af in Nevada, in accordance with a Lower Basin implementing agreement(s).
3. If the Lower Division States have not fully executed the applicable or necessary implementing agreements, the Secretary shall determine the quantities and apportionment thereof as identified in **Section 5.3.A.1**, in accordance with applicable law.
4. Should the Most Probable projection of any 24-Month Study show Lake Mead falling below 1,010 feet at any time in the subsequent 12-month period, the Secretary shall consult and coordinate with the Basin States and Basin Tribes, and other affected parties as appropriate,

to consider potential actions throughout the Basin to respond to and address hydrologic and operational conditions.

5. Should the Most Probable projection indicate a likelihood of achieving Lake Mead elevation 1,125 feet or above during 2027 or 2028, the Secretary will consult with the Lower Division States regarding the potential to increase apportionments.

B. Additional System Conservation Water

In addition to the reductions of 1.25 maf per year in 2027 and 2028, Contractors within the Lower Division States will conserve an additional 700,000 af in total of System Conservation water in 2026, 2027, and 2028 pursuant to voluntary agreements with those Contractors and in accordance with a Lower Basin implementing agreement(s). In the absence of a Lower Division State implementing agreement, the Secretary will work with Contractors within the Lower Division States to conserve additional System Conservation water, as possible.

5.4 Implementation of Intentionally Created Surplus

The provisions of this **Section 5.4** assume that the Lower Division States reach agreement. If such agreement is not reached, the Secretary shall deliver Intentionally Created Surplus (ICS) created and stored through December 31, 2026, in accordance with the applicable provisions of the 2007 Record of Decision for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines) and the 2019 Lower Basin Drought Contingency Plan Agreement (Lower Basin DCP) executed on May 20, 2019). In the absence of such agreement, no new ICS may be created after December 31, 2026.

Subject to such agreement, the ICS program will be extended through these 2027–2028 Operating Guidelines. Tributary Conservation ICS and Developed Shortage Supply may be created and delivered and shall be accounted for pursuant to the provisions set forth in Sections 3 and 4 of the 2007 Interim Guidelines. DCP ICS shall be delivered and accounted for pursuant to Section III.F. of Exhibit 1 to the Lower Basin DCP.

All other categories of ICS, whether created before or after the effective date of these 2027–2028 Operating Guidelines, are subject to the following provisions. References to ICS in the following provisions refer to Binational ICS, Extraordinary Conservation ICS, and System Efficiency ICS, unless otherwise specified. ICS may be created through December 31, 2028. ICS may be delivered through December 31, 2038.

The existing categories of ICS are Binational ICS, Extraordinary Conservation ICS, Tributary Conservation ICS, System Efficiency ICS, and DCP ICS and are being carried forward as part of these 2027–2028 Operating Guidelines.

A Contractor may create ICS consistent with an approved ICS Exhibit.

ICS activity, as described in this section, does not and will not adversely impact operations upstream of Lee Ferry and is not factored into the determination of the Lake Powell release or any activities upstream of Lee Ferry.

A. Creation of ICS

A Contractor may only create ICS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of ICS to the Secretary with sufficient information to demonstrate how all requirements of these 2027–2028 Operating Guidelines will be met in the Contractor’s creation of ICS. An ICS Creation Plan may be a single year or multi-year plan and may describe the creation of ICS pursuant to multiple projects consistent with a Contractor’s approved ICS Exhibit(s). Until such plan is reviewed and approved by the Secretary, such plan or any ICS purportedly created through it shall not be a basis for creation of ICS. An ICS plan will consist of, at a minimum, the following information:
 - a. Project description, including what extraordinary measures will be taken to conserve or import water;
 - b. Term of the activity;
 - c. Estimate of the amount of water that will be conserved or imported;
 - d. Proposed methodology for verification of the amount of water conserved or imported; and
 - e. Documentation regarding any State or Federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of ICS.
2. There shall be a one-time deduction of 10 percent from the amount of ICS, including Tributary ICS, in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead. This one-time system assessment shall not apply to:
 - a. System Efficiency ICS created because a large portion of the water conserved by this type of project will increase the quantity of system water in storage over time.
 - b. Extraordinary Conservation ICS created by conversion of Tributary Conservation ICS that was not delivered in the Year created, because the 10 percent of the ICS is deducted at the time the Tributary Conservation ICS is created.
3. Except as provided in 3.A.2. of the 2007 Interim Guidelines for the conversion of Tributary Conservation ICS to Extraordinary Conservation ICS, Extraordinary Conservation ICS can only be created if such water would have otherwise been beneficially used.
4. The maximum total amount of Extraordinary Conservation ICS that can be created during any Year is limited to the following:
 - a. 125,000 af for Arizona Contractors;
 - b. 400,000 af for California Contractors; and
 - c. 125,000 af for Nevada Contractors.
 - d. If one but not all of the Lower Division States reaches its annual Extraordinary Conservation ICS creation limit, and if there remains a desire to create additional amounts of Extraordinary Conservation ICS, the Secretary, subject to the provisions of a Lower Basin implementing agreement(s), may authorize additional Extraordinary Conservation ICS creation within the total combined Lower Division State annual limitation of 650,000 af.
5. The maximum quantity of Binational ICS, Extraordinary Conservation ICS, and DCP ICS that may be accumulated, at any time, is limited to the following:
 - a. 1.0 maf for Arizona Contractors;

- b. 2.0 maf for California Contractors; and
 - c. 800,000 af for Nevada Contractors.
 - d. If a Lower Division State reaches its maximum ICS accumulation limit, the ICS Contractor may coordinate with ICS Contractors from the other Lower Division States and request that the Secretary provide additional ICS accumulation space available in another State's limit, subject to the provisions of a Lower Basin implementing agreement(s).
- 6. No surplus water can be used to create ICS.
 - 7. A Contractor must notify Reclamation of the amount of ICS it wishes to create for the subsequent Year pursuant to an existing, approved plan. Once the Plan is approved, the Contractor cannot increase the amount of ICS they intend to create during the Year.

B. Delivery of ICS

In addition to the provisions in Section 10.9.G of the ROD, and as modified below, the Secretary shall deliver ICS, including the use of ICS to offset reductions, in accordance with applicable law and the following conditions:

- 1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding ICS. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of ICS shall be maintained and open to inspection by the Secretary and by any Contractor or Basin State for 5 years after the creation of such ICS.
- 2. The existence of Forbearance Agreements necessary to bring the delivery of the ICS into compliance with Articles II(B)(2) and II(B)(6) of the Consolidated Decree.
- 3. A limitation on the total combined amount of any ICS that may be delivered in any Year is as follows:
 - a. 300,000 af for Arizona Contractors;
 - b. 400,000 af for California Contractors; and
 - c. 300,000 af for Nevada Contractors.
- 4. The total combined delivery of ICS from January 1, 2026, through December 31, 2028, shall not exceed 800,000 af.
- 5. In a year when the January 1 elevation of Lake Mead is between elevation 1,025 feet and 1,000 feet, the Secretary will consult with the ICS Contractor for requests for ICS delivery when Lake Mead elevations are between 1,025 feet and 1,000 feet. This consultation will occur before a request for ICS delivery is approved. The Secretary could reduce or deny a request for ICS delivery if the requested delivery would result in Lake Mead declining below elevation 1,000 feet in the current year based on the current Most Probable 24-Month Study projection or if the elevation of Lake Mead is below elevation 1,000 feet. Consultation will occur such that it is implementable by the Contractor within the calendar year.
- 6. No ICS shall be delivered in a year when the January 1 Lake Mead elevation is less than 1,000 feet.
- 7. A Contractor may request mid-Year modification(s) to the amount of ICS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this **Section 5.4.B**.

C. Accounting for ICS

In addition to the provisions in Section 10.9.H of the ROD, and as modified below, the Secretary shall annually account for and verify ICS in accordance with the following:

1. A Contractor shall submit for the Secretary's review and verification, appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of ICS created and that the method of creation was consistent with the Contractor's approved ICS plan, a Forbearance Agreement, and a Delivery Agreement. Such information shall be submitted in the Year following the creation of the ICS.
2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to **Section 5.4.C.1**, and provide a final written decision to the Contractor regarding the amount of ICS created. The results of such final written decisions shall be made available to the public through publication of the Water Accounting Report or other appropriate means. A Contractor and any party to an applicable Forbearance Agreement may appeal the Regional Director's verification decision first to the Regional Director and then to the Secretary; and through judicial processes.
3. The quantity of ICS remaining in an ICS Account at the end of each Year shall be diminished by annual evaporation losses of 3 percent. Losses shall be applied annually to the end-of-the-Year balance of ICS beginning in the Year after the ICS is created and continuing until no ICS remains in Lake Mead. This provision includes DCP ICS but excludes System Efficiency ICS created pursuant to the 2007 Forbearance Agreement Exhibit C - Drop 2 Reservoir System Efficiency Project.
4. ICS from a project within a State may be credited or transferred to the ICS Account of a different Contractor within that State that has funded or implemented the project creating ICS, or to the ICS Account of a Contractor within the same State as the funding entity and project and with written agreement of the funding entity.
5. Each Year the Water Accounting Report will include ICS Account balance information for each Contractor and shall address ICS creation, deliveries, amounts no longer available for delivery due to releases for flood control purposes, deductions applied to volumes of ICS created pursuant to **Section 5.4.A.2**, deductions due to annual evaporation losses pursuant to **Section 5.4.C.3**, any amounts of ICS converted to Extraordinary Conservation ICS, any ICS transferred pursuant to **Section 5.4.C.4**, and ICS remaining available for delivery.
6. A Contractor with ICS stored in Lake Mead can offset an inadvertent overrun resulting from gage error or unanticipated changes in water accounting discovered in December or after the end of the calendar year, as determined during development of the Water Accounting Report, with ICS subject to the following limitations:
 - a. The cumulative volume of ICS used to offset overruns in a given year is limited to a maximum of 25,000 af in each Lower Division State.
 - b. The volume of ICS used to offset potential overruns is not limited as described in **Section 5.4.B.4**.
7. Nothing in these 2027–2028 Operating Guidelines shall preclude the development of additional categories of ICS, such as ICS created through interstate exchanges involving a non-Colorado River supply, subject to Secretarial review and approval and the applicable forbearance.

8. Water provided to the United States pursuant to Section IX.A of Minute No. 323 and converted to Binational ICS in 2026 will be accounted for as Binational ICS on January 1, 2027, and credited to the applicable ICS Account.

5.5 Implementation of the Federally Managed Water Resources Pool

- A. A Federally Managed Water Resources Pool (FMWRP) in Lake Mead is established. The FMWRP shall be composed of Federally managed contractual rights to ICS in Lake Mead. The FMWRP is created to provide additional tools to address continued drought, including:
 - (a) to meet Federal firming or other Federal delivery obligations pursuant to a congressionally authorized Indian Water Rights Settlement; and (b) to provide limited offsetting of Tribal wet water shortages up to 25 percent of shorted Mainstream Lower Colorado River or Central Arizona Project entitlements for these 2027–2028 Operating Guidelines.
- B. Creation of the FMWRP
 1. The Secretary shall create the FMWRP upon the effective date of the ROD.
 2. The FMWRP may consist of the following sources of ICS:
 - a. ICS: The right to delivery of which the Secretary currently controls by contract;
 - b. Existing or future Binational ICS: The right to delivery of which the Secretary acquires by contract from account holders of such Binational ICS during the term of these 2027–2028 Operating Guidelines; and
 - c. Existing or future ICS: The right to delivery of which the Secretary obtains from water rights holders in Arizona during the term of these 2027–2028 Operating Guidelines.
 3. The Secretary shall account for and deliver ICS in FMWRP solely for the purposes listed in this **Section 5.5.B**, and subject to the provisions set forth in **Section 5.5.C**.
 - a. Purposes of the FMWRP in order of precedence and as limited based on available resources:
 - i. Federal firming or other Federal delivery obligations pursuant to congressionally authorized Indian water rights settlements; and
 - ii. After any Federal statutory obligations are met in any given calendar year, offsets of up to 25 percent of reductions of Tribal wet water shortages to Mainstream Lower Colorado River or Central Arizona Project entitlements for these 2027–2028 Operating Guidelines as further specified under delivery agreements with such affected Arizona Tribes.
- C. FMWRP Administration

The FMWRP shall be subject to all provisions of **Section 5.4** in addition to the provisions in this **Section 5.5**. For any State-specific criteria in **Section 5.4**, the FMWRP shall be subject to the criteria applicable to the State in which the ICS was created and shall count toward any maximum limits for that State, except that the delivery of ICS shall count toward the maximum limit of the State in which it is delivered.

 1. The maximum quantity of ICS that may be accumulated in the FMWRP, at any time, is limited to the accumulation maximum of 450,000 af.

2. Federal delivery agreements are required for delivery of FMWRP water.
 3. Binational ICS the right to delivery of which the Secretary has acquired for the FMWRP may be delivered to any Lower Division State.
 4. Each Year the Water Accounting Report will include FMWRP Account balance information.
- D. In advance of the next operating period, the Secretary and the Lower Division States commit to discuss future details for the FMWRP for the remainder of the ROD duration, through 2036, as described in Section 10.8 of the ROD, including identification of mechanisms and potential water sources, sufficient to accomplish FMWRP purposes.

5.6 Water Deliveries to Mexico for Operating Years 2027–2028

Deliveries of water to the United Mexican States (Mexico) are made pursuant to the 1944 Water Treaty and associated implementing agreements called Minutes. Water delivery reductions applicable to Mexico, in accordance with Minutes to the 1944 Water Treaty, are determined by the International Boundary and Water Commission, U.S. and Mexico, and are in addition to and separate from the apportionment to the Lower Division States under Shortage Conditions determined under **Section 5.3.A.1**. For each such Year, the Secretary, in coordination with the Department of State and the United States Section of the International Boundary and Water Commission, will implement any reductions in deliveries to Mexico in accordance with the applicable Minute.

5.7 Implementation of the Guidelines for Operating Years 2027–2028

A. AOP Process

During Operating Years 2027 and 2028, the Secretary shall utilize the AOP process to implement operations under these 2027–2028 Operating Guidelines concerning the coordinated operations of Lake Powell and Lake Mead pursuant to **Section 5** of these 2027–2028 Operating Guidelines, and the allocation of apportioned but unused water from Lake Mead and the implementation of whether Normal, Surplus, or Shortage Conditions shall apply for the delivery of water from Lake Mead, pursuant to **Section 5.3** of these 2027–2028 Operating Guidelines.

B. Consultation

The Secretary shall consult on the implementation of these 2027–2028 Operating Guidelines in circumstances including but not limited to the following:

1. The Secretary shall first consult with all the Basin States before making any substantive modification to these 2027–2028 Operating Guidelines.
2. Upon a request for modification of these 2027–2028 Operating Guidelines, or upon a request to resolve any claim or controversy arising under these 2027–2028 Operating Guidelines or under the operations of Lake Powell and Lake Mead pursuant to these 2027–2028 Operating Guidelines or any other applicable provision of Federal law, regulation, criteria, policy, rule, or guideline, or regarding application of the 1944 Water Treaty that has the potential to affect domestic management of Colorado River water, the Secretary shall invite the Governors of all the Basin States, or their designated representatives, and the Department of State and United States International Boundary and Water Commission as

appropriate, to consult with the Secretary in an attempt to resolve such claim or controversy by mutual agreement.

3. The Secretary shall consult with the Basin States and ICS contractors regarding the creation and administration of ICS.
4. The Secretary shall consult with the Basin States in the event of any of the following conditions when in the Lower Elevation Infrastructure Protection Range:
 - if the volume needed to protect the critical elevation of 3,500 feet at Lake Powell in March of the following year is > 2.0 maf; or
 - if any Basin State believes there is inequity between the volume available for release from the CRSP Upper Initial Units and the Lake Powell release reductions, it may request consultation; or
 - if a Lake Powell release of < 6.0 maf is required to protect 3,500 feet in March of the following year; or
 - if the Lake Powell elevation at the end of the water year is projected to be greater than 3,565 feet; or
5. The Secretary shall consult with the Basin States if Lake Powell is projected to reach an elevation of above 3,665 feet during Water Years 2027 or 2028, to determine to what extent releases above 8.23 maf, including the potential for releases consistent with Section 602(a) storage requirement contained in the Colorado River Basin Project Act.
6. The Secretary shall consult with the Lower Division States in the event of any of the following conditions:
 - Should the Most Probable projection of any 24-Month Study show Lake Mead falling below 1,010 feet at any time in the subsequent 12-month period, the Secretary shall with the Basin States and Basin Tribes, and other affected parties as appropriate, to consider potential actions throughout the Basin to respond to and address hydrologic and operational conditions.
 - Should the Most Probable forecast indicate a likelihood of achieving Lake Mead elevation 1,125 feet or above during 2027 or 2028, the Secretary will consult with the Lower Division States regarding the potential to increase apportionments.
7. Reclamation will coordinate and consult throughout the 2027–2028 Operating Guidelines with Basin Tribes and Mexico pursuant to the circumstances detailed in this section.

C. Accounting

For Operating Years 2027–2028, Reclamation will continue to account for and verify Lower Division States water use, including reductions and ICS activity through the Lower Colorado River Water Accounting and Water Use Report.

D. Operations During the Effective Period

For Operating Years 2027–2028, the Secretary will base annual determinations regarding the operations of Lake Powell and Lake Mead on these 2027–2028 Operating Guidelines unless further extraordinary circumstances arise. As identified in Section 10.7 of the ROD, such circumstances could include operations that are prudent or necessary for safety of dams, public health and safety, other emergency situations, or other unanticipated or unforeseen activities arising from actual operating experience.

Beginning no later than October 1, 2027, the Secretary shall initiate the process to determine the next set of guidelines as described in Section 10.5 of the ROD. The Secretary shall consult with the Basin States and Basin Tribes, and other affected parties as appropriate, during this process.

5.8 Authority and Operations for Operating Years 2027–2028

The provisions of Section 10.11 of the ROD apply to these 2027–2028 Operating Guidelines.

5.9 Implementing and Parallel Agreements

These 2027–2028 Operating Guidelines contemplate actions that rely upon necessary implementing and parallel agreements as referenced herein. Agreements are anticipated to be executed within a sufficient timeframe to support implementation of 2027 and 2028 operations, including agreements to which the United States is a party or an approver, and non-federal agreements. Namely, the Secretary acknowledges that portions of **Sections 5.3 and 5.4**, as described, will be implemented only when a Lower Basin implementing agreement takes effect as well as the drought operations at the CRSP Upper Initial Units pursuant to the process outlined in an agreement concerning drought operations at these facilities and as referenced in **Section 5.2**. The absence of such agreements shall not impair, delay, or otherwise limit the Secretary's authority to act and any Basin State or Basin Tribe or Contractor shall retain any rights as set forth in Section 10.11 of the ROD.

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

State of Nevada, Colorado River Commission of Nevada, Southern Nevada Water Authority

(b) County of Residence of First Listed Plaintiff Clark County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sarah C. Bordelon (NV Bar No. 14684), Holland & Hart LLP,
5470 Kietzke Lane, Suite 100, Reno, NV 89511, (775) 327-3011
(See attachment)

DEFENDANTS

Doug Burgum, in his official capacity as Secretary of the Department of the Interior, U.S. Department of the Interior, U.S. Bureau of Reclamation, Aubrey Bettencourt in her official capacity exercising the delegated authority of the Commissioner of the U.S. Bureau of Reclamation

County of Residence of First Listed Defendant District of Columbia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: THE TRACT OF LAND INVOLVED
IN LAND CONDEMNATION CASES, USE THE LOCATION OF

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☒ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
5 U.S.C. §§ 701-706 (Administrative Procedure Act); 42 U.S.C. §§ 4321-4370h (National Environmental Policy Act)

Brief description of cause: Challenge to the Bureau of Reclamation's Record of Decision and Final Environmental Impact Statement for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead as violations of the APA, NEPA, and the Law of the River.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ N/A (Declaratory and injunctive relief sought) CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

August 24, 2026

SIGNATURE OF ATTORNEY OF RECORD

/s/ Sarah C. Bordelon

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

State of Nevada, Colorado River Commission of
Nevada, Southern Water Authority

Plaintiff(s)

v.

Civil Action No.

Doug Burgum, in his official capacity as Secretary of
the Department of the Interior, U.S. Department of the
Interior, U.S. Bureau of Reclamation, Aubrey
Bettencourt, in her official capacity exercising the
delegated authority of the Commissioner of the U.S.
Bureau of Reclamation

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Doug Burgum, in his official capacity as Secretary of the Department of the Interior
1849 C Street NW
Washington, DC 20240

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

State of Nevada, Colorado River Commission of
Nevada, Southern Water Authority

Plaintiff(s)

v.

Civil Action No.

Doug Burgum, in his official capacity as Secretary of
the Department of the Interior, U.S. Department of the
Interior, U.S. Bureau of Reclamation, Aubrey
Bettencourt, in her official capacity exercising the
delegated authority of the Commissioner of the U.S.
Bureau of Reclamation

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

State of Nevada, Colorado River Commission of
Nevada, Southern Water Authority

Plaintiff(s)

v.

Civil Action No.

Doug Burgum, in his official capacity as Secretary of
the Department of the Interior, U.S. Department of the
Interior, U.S. Bureau of Reclamation, Aubrey
Bettencourt, in her official capacity exercising the
delegated authority of the Commissioner of the U.S.
Bureau of Reclamation

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Bureau of Reclamation
1849 C Street NW
Washington, DC 20240

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Nevada

State of Nevada, Colorado River Commission of
Nevada, Southern Water Authority

Plaintiff(s)

v.

Civil Action No.

Doug Burgum, in his official capacity as Secretary of
the Department of the Interior, U.S. Department of the
Interior, U.S. Bureau of Reclamation, Aubrey
Bettencourt, in her official capacity exercising the
delegated authority of the Commissioner of the U.S.
Bureau of Reclamation

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Aubrey Bettencourt, in her official capacity exercising the delegated authority of the
Commissioner of the U.S. Bureau of Reclamation
1849 C Street NW
Washington, DC 20240
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: