



July 22, 2022

Tanya Trujillo
 Assistant Secretary of the Water and Science
 Department of the Interior
 1849 C Street, N.W.
 Washington, D.C. 20240

Re: Protection Volume Discussions Among the Colorado River Basin States (Basin States)
 and the Department of the Interior (Department)

Dear Assistant Secretary Trujillo:

In her June 14 testimony to the Senate Committee on Energy and Natural Resources Reclamation Commissioner Camille Touton said that 2 million to 4 million acre-feet of additional conservation was needed starting in 2023. Commissioner Touton testified that the United States' preference was to urge Basin States and stakeholders to work together to develop a protection volume plan, but Commissioner Touton made it clear that the United States would act unilaterally to *protect the system* if no voluntary plan was developed.

The volume of water that the Department is asking to be voluntarily reduced by water users is massive and will undoubtedly impact all or some of the Basin Tribes' water rights. We, the undersigned Tribes within the Colorado River Basin, are aware that there are discussions among the Basin States and the Department to develop a voluntary plan by August. Basin Tribes are largely in the dark about what is being discussed or whether a plan is beginning to coalesce. There are only a few weeks left to develop this plan in time to meet the deadline Commissioner Touton set. Yet there has been no meaningful discussion with Basin Tribes about what the implications of this plan are likely to be or what unilateral action(s) the Department is contemplating. We should not have to remind you – but we will again – that as our trustee, you must protect our rights, our assets, and people in addition to any action you take on behalf of the system. What is being discussed behind closed doors among the United States and the Basin States will likely have a direct impact on Basin Tribes' water rights and other resources and we expect and demand that you protect our interests.

As you are aware, in a November 15, 2021 letter, 20 of the Basin Tribes identified some key Guiding Principles regarding the long-term management of Colorado River system. Foremost

among these principles was that “[t]he federal trust responsibility requires that the United States ensure Basin Tribes are included in the development and implementation of the policies and rules that will govern how the Colorado River will be managed from this point forward.” We appreciated the meeting with Basin Tribes on March 28 in Albuquerque, NM, that Secretary Haaland and you conducted in response to that letter. And we were encouraged by your commitments at that meeting to support Basin Tribes’ inclusion in the development of policies and rules that govern the Colorado River. We look forward to seeing that commitment implemented.

In that vein, it was good to see the June 24 Pre-Scoping Notice state that the Department “is committed to engage and consult with Basin Tribes in a meaningful and transparent manner during the upcoming NEPA process and to fully consider tribal input and viewpoints through government-to-government consultation, consistent with the Department’s Detailed Plan for Improving Interior’s Implementation of Executive Order 13175”¹ The Pre-Scoping Notice also states that “given current conditions in the Colorado River Basin, Reclamation may utilize multiple NEPA efforts, or other appropriate processes, to address emerging low-reservoir conditions in the Basin.”² But we believe that protection volume discussions that are occurring among the Basin States and the Department are one of these “processes” that Reclamation is utilizing and we are concerned that Basin Tribes are not being kept appropriately informed of developments there. Government-to-government consultation must, therefore, take place as soon as possible.

The Department’s Detailed Plan for Improving Interior’s Implementation of E.O. 13175 highlighted shortcomings in past consultations. Specifically, federal agencies often failed to consult with Tribes before a decision was made and to rectify these past shortcomings: “[c]onsultations must occur early, and must occur for any substantial direct effect on Tribes” including “water and other rights.”³ Moreover “[n]otice must be timely, informative, and easily accessible,” and “[f]ederal officials must freely exchange information with Tribal officials and be transparent in consultation.”⁴ Again, we remind you that protection of the system is not your only responsibility.

Given that discussions are taking place right now that will very likely impact tribal water rights, we the undersigned request that you provide adequate notice to all Basin Tribes. This notice needs to explain the potential ramifications of actions being discussed and considered by the Basin States and the Department so that Basin Tribes understand the gravity of the situation and that they may be individually affected. Due to the condensed timeline the Department has set, this notice needs to be provided as soon as possible.

¹ *Request for Input on Development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions*, 87 Fed. Reg. 37,887 (June 24, 2022).

² 87 Fed. Reg. 37,885.

³ [Detailed Plan to Improve Interior's Implementation of E.O. 13175 \(doi.gov\)](#) at p. 5.

⁴ *Id.*

Sincerely,

Melvin Baker, Chairman, Southern Ute Indian Tribe

Corrina Bow, Chairwoman, Paiute Indian Tribe of Utah

Shaun Chapoose, Chairman, Ute Indian Tribe

Manuel Heart, Chairman, Ute Mountain Ute Tribe

Calvin Johnson, Chairman, Tonto Apache Tribe

Jordan D. Joaquin, Chairman, Fort Yuma Quechan Indian Tribe

Stephen R. Lewis, Governor, Gila River Indian Community

Glenn Lodge, Chairman, Chemehuevi Indian Tribe

Robert Miguel, Chairman, Ak Chin Indian Community

Tim Nuvangyaoma, Chairman, Hopi Tribe

Terry Rambler, Chairman, San Carlos Apache Tribe

Edward Velarde, President, Jicarilla Apache Nation

Ona Segundo, Chairwoman, Kaibab Band of Paiute Indians

Kasey Velasquez, Chairman, White Mountain Apache Tribe

cc:

Camille Calimlim Touton, Commissioner, Bureau of Reclamation

David Palumbo, Deputy Commissioner, Bureau of Reclamation

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Wayne Pullan, Regional Director, Upper Colorado River, Bureau of Reclamation

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