



November 15, 2021

Ms. Deb Haaland
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Haaland:

As leaders of the undersigned Tribes within the Colorado River Basin, we are writing to you regarding the development of the next framework for the long-term management of the Colorado River system (Next Framework) that will replace the 2007 Interim Guidelines, and the essential role that Tribes in the basin should have throughout this process. While it has not always been the case, we see that the Bureau of Reclamation (Reclamation) is working to become more adept at efforts to acknowledge and fulfill its federal trust responsibility. We also realize that this is not a simple task given the multitude of interests you must balance along with the responsibility you bear to each of the 30 Tribes in the basin (Basin Tribes).

Although we express common views in this letter, each of the undersigned Basin Tribes has individual issues of specific relevance to its own rights and interests that will be communicated through individual government-to-government consultation with the United States during this process. We, however, offer this letter to help advance the discussion in ways we believe may be useful, meaningful, and can reduce unnecessary conflict.

Basin Tribes hold water rights to approximately 3 million acre-feet of Colorado River water, which equates to about 25% of the river's current average annual flow. This percentage will only increase as climate change continues to diminish overall runoff amounts and reduces the amount of water available to lower priority users. The recent publication of the October 2021 Most Probable 24-Month Study of the operation of Lakes Powell and Mead highlights an ongoing drought scenario. The study projects Lake Mead elevation on January 1, 2022 to be at or below 1,075 feet, which has prompted the Secretary of the Interior to declare the first-ever shortage in the basin. The study projects

Lake Powell elevation on January 1, 2022, to be less than 3,575 feet, which compelled the Bureau of Reclamation and the Upper Basin States to initiate the Drought Response Operations and to begin development of a Drought Operations Plan as outlined in the Drought Response Operations Agreement.

Basin Tribes are aware of ongoing efforts by the Bureau of Reclamation and the seven basin states to adapt the Drought Contingency Plans to the existing and emerging hydrologic conditions, and seek to be involved in these discussions and decisions. Basin Tribes' involvement in these ongoing decisions, as well as the process of developing the Next Framework, is a necessity with regard to, and in recognition of, the impacts to Basin Tribes of the continuing drought and looming basin-wide shortages.

As noted in a letter sent to Secretary Bernhardt in November 2020 from 17 Basin Tribes who participated in the review of the "Draft Report-Review of Colorado River Interim Guidelines...", Reclamation needs to account for Basin Tribes' current and future water use as well as Basin Tribes use of water that is not yet quantified in developing the Next Framework. The Next Framework MUST also recognize and include support for Tribal access to clean water, Tribal water rights settlements, Tribal sovereignty, federal accountability to Tribal trust responsibilities, and providing operationally functional and flexible tools that will aid Basin Tribes in the full utilization of their water rights.

Our perspective, which is undoubtedly shared by others in the Basin, is that we should all be working together as soon as possible. This letter reflects the unified voice of the undersigned leaders about Basin Tribes' expectations for participating in the development of the Next Framework along with some initial policy goals.

Although the 2007 Interim Guidelines will not actually expire until 2026, the timeline for meaningful input from Basin Tribes into the formulation of the Next Framework is far shorter. We believe that the most significant parts of the substantive negotiations are likely to unfold over the next 2-2 ½ years in order to have enough time to finish the NEPA process and seek the necessary Congressional approvals ahead of the expiration of the 2007 Interim Guidelines. We are eager to meet with you to confirm the current Administration's expectations and policy goals regarding the Basin Tribes integration into the development of the Next Framework so that Reclamation and other federal agencies have a clear understanding of how Basin Tribes should be included in this process. We cannot stress enough that we believe this meeting should occur as soon as possible given the time constraints described above.

We and many other Basin Tribes have agreed to form an ad hoc group called the Colorado River Basin Tribal Coalition (Tribal Coalition), a place where Basin Tribes can meet and work together. During the Tribal Coalition's October 28-29, 2021 meeting we refined a set of Guiding Principles which we feel will best represent the position of the Tribal Coalition.

These Guiding Principles are as follows:

1. The 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.
2. The Tribal Coalition expects, at a minimum, that President Biden's Administration will commit to ensuring that:
 - a. Basin Tribes will have an integral role in shaping the Next Framework, and also in shaping the United States' policy and negotiating position necessary to protect tribal trust water resources when dealing with the Colorado River Basin States (Basin States) during the development of the Next Framework, and
 - b. The United States will ensure that tribes' water rights are fully protected in any proposed Next Framework it considers, including tribal water rights not yet quantified, and
 - c. The United States will provide technical assistance to Basin Tribes to help them evaluate the impacts of any proposals by states or stakeholders on their rights and interests, and
 - d. The United States will encourage Basin States to meaningfully include Basin Tribes in internal state deliberations and interstate negotiations, expressly reminding them failure to do so may create unnecessary conflicts, and
 - e. The United States will not entertain, tacitly or otherwise, any proposal that may adversely impact tribal water resources without first undertaking government-to-government consultation with all potentially affected tribes.
3. We request that the Biden Administration provide a written commitment as soon as possible, building upon existing federal mandates for government-to-government consultation with Basin Tribes, that consultation with Basin Tribes will be expressly required in the Next Framework in the same binding manner as consultation with Basin States is currently required in the Interim Framework.
4. We recognize the needs and interests of tribes to develop and use their currently unused and undeveloped water rights may conflict with basin-wide efforts to reduce overall water use. However, the United States should support the full utilization of presently unused or under-used tribal water rights, and the Next Framework must provide operationally functional and flexible tools to accommodate the interests of tribes in fully utilizing their water rights while simultaneously recognizing the Basin-wide needs to reduce overall consumptive use. Such tools could include, but are not limited to:
 - a. Compensated forbearance of tribal water rights;
 - b. Off-reservation marketing for all Basin Tribes; and

- c. Allowing Basin Tribes to dedicate currently unused water to compensated system conservation programs.

We are cautiously optimistic that Reclamation, in recognition of its federal trust responsibility, will increasingly acknowledge that the Basin Tribes are not a mere stakeholder group of water users but are 30 separate sovereigns on at least the same footing as the Basin States. As the leaders of some of these Basin Tribes, we look forward to working with the Department of Interior and Reclamation in the development of the Next Framework to ensure the long-term sustainability of the Colorado River and the people, animals, and economies that rely upon it. Again, we urge that you meet with the Tribal Coalition as soon as possible so we can begin this important dialogue.

Sincerely,

Melvin Baker, Chairman, Southern Ute Indian Tribe

Corrina Bow, Chairwoman, Paiute Indian Tribe of Utah

Damon Clarke, Chairman, Hualapai Tribe

Shaun Chapoose, Chairman, Ute Indian Tribe

Sherry Cordova, Chairwoman, Cocopah Indian Tribe

Gwendena Lee-Gatewood, Chairwoman, White Mountain Apache Tribe

Martin Harvier, President, Salt River Pima-Maricopa Indian Community

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

Jonathan Nez, President, Navajo Nation

Ned Norris, Chairman, Tohono O'odham Nation and Austin Nunez, Chairman, San Xavier District, Tohono O'odham Nation

Robert Miguel, Chairman, Ak Chin Indian Community

Val R. Panteah, Governor, Pueblo of Zuni

Laura Parry, Chairwoman, Moapa Band of Paiutes

Sierra Pencille, Chairwoman, Chemehuevi Indian Tribe

Terry Rambler, Chairman, San Carlos Apache Tribe

Ona Segundo, Chairwoman, Kaibab Band of Paiute Indians

Edward Velarde, President, Jicarilla Apache Nation

cc:

Spencer Cox, Governor, State of Utah
Doug Ducey, Governor, State of Arizona
Mark Gordon, Governor, State of Wyoming
Michelle Lujan Grisham, Governor, State of New Mexico
Gavin Newsom, Governor, State of California
Jared Polis, Governor, State of Colorado
Steve Sisolak, Governor, State of Nevada

Gene Shawcroft, Governor's Representative, State of Utah
Tom Buschatzke, Governor's Representative, State of Arizona
John D'Antonio Jr., Governor's Representative, State of New Mexico
John Entsminger, Governor's Representative, State of Nevada
Rebecca Mitchell, Governor's Representative, State of Colorado
Peter Nelson, Governor's Representative, State of California
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Tanya Trujillo, Assistant Secretary for Water and Science, U.S. Department of the Interior
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