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VIA ELECTRONIC MAIL

Attn: BCOO-1000
Bureau of Reclamation
Post Office Box 61470
Boulder City, Nevada 89006

Re: Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead – Draft Environmental Impact Statement Comment Letter

Dear U.S. Bureau of Reclamation:

Imperial County (the "County") submits the following comments on the U.S. Bureau of Reclamation Draft Environmental Impact Statement ("Draft EIS" or "DEIS") for the Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead (the "Proposed Guidelines"). Pursuant to the National Environmental Policy Act ("NEPA"), the Draft EIS was issued for public review on January 16, 2026. The County appreciates the opportunity to comment on the Draft EIS and looks forward to working with the Bureau of Reclamation in order to find an equitable solution that adequately addresses water shortages and the associated environmental impacts. This letter has been prepared with the assistance of County staff and consultants, including the Imperial County Air Pollution Control District, Agricultural Commissioner, and County Departments of Planning and Workforce and Economic Development. [County to pls. supplement as necessary]

I. INTRODUCTION

The U.S. Bureau of Reclamation ("Reclamation") Draft EIS declares that it "has been prepared to inform the Secretary's timely adoption of a new set of guidelines that would be sufficiently robust and provide improved predictability to all water users and managers in the Basin" (Draft EIS, p. E-6). The Draft EIS includes a several proposed alternatives that would reduce California's Colorado River apportionments up to 33 percent (Draft EIS, p. ES-33) and increase shortages 3x to 5x in critically dry conditions (Draft EIS, p. ES-32). Under the "Enhanced Coordination" alternative, Imperial Valley would face a shortage of 925,930 acre-feet ("af") of water, with diversions from the Imperial Dam reduced by over one-third, to just 1.8 million af (Draft EIS, p. 3-23). These reductions

would have significant environmental impacts by impeding geothermal energy, critical mineral resource extraction, and agricultural uses in Imperial Valley.

These impacts directly conflict with the current administration's efforts to promote these land uses. The January 2025 "Declaring a National Energy Emergency" Executive Order promoted the "development, production, transportation, refining, and generation capacity" of domestic energy, defined to include geothermal resources.[1] The March 2025 Executive Order titled "Immediate Measures to Increase American Mineral Production" promoted the accelerated mining and production of "critical minerals," including lithium.

Proposed reductions would also result in socioeconomic and land use impacts in Imperial County. Reduced water supply would require large-scale fallowing and crop-switching in a primarily agricultural county and the resultant shuttering of industries that support and draw support from agriculture.[2] The County projects that planned reductions in water supply could affect 52,697 acres, or 10% of the County's agricultural footprint, result in ~ $250 million in annual economic losses, and result in 450-700 job losses (Attachment A: Workforce & Economic Development Analysis).

The Draft EIS does not address any of the foreseeable impacts from reductions in Imperial Valley diversions and Salton Sea inflows. In doing so, the Draft EIS also fails to consider mitigation measures for these impacts. Furthermore, the EIS does not evaluate alternatives that would reduce apportionments to the Upper Basin States upstream of Lake Powell. The County requests that the Bureau of Reclamation issue a revised draft or supplemental EIS that (1) includes an alternative that more equitably reduces water claims between upper and lower basin states, (2) analyzes foreseeable impacts to the Imperial Valley and Salton Sea, and (3) includes mitigation measures that address the magnitude impacts in the EIS.

II. THE DRAFT EIS FAILS TO CONSIDER A REASONABLE RANGE OF ALTERNATIVES

NEPA requires an EIS to include "a reasonable range of alternatives to the proposed agency action" (42 U.S.C. §4332(C)(iii.)). Moreover, NEPA expressly requires Federal agencies to, "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources" (42 U.S.C. § 4332(E)).

[1] https://www.whitehouse.gov/presidential-actions/2025/03/immediate-measures-to-increase-american-mineral-production/

[2] In July 2025, California's last sugar plant closed in Imperial County, causing the region to lose a ~$250 million industry and over 700 jobs. https://www.kpbs.org/news/environment/2025/08/14/californias-last-beet-sugar-plant-is-closing-can-imperial-county-keep-the-industry-alive

Reasonable alternatives are those that that are technically and economically feasible, meet the proposal's purpose and need, and, where applicable, meet the goals of the applicant (CEQ Citizen's Guide to NEPA, p. 13). Agencies are obligated to evaluate a reasonable range of feasible alternatives in enough detail so that a reader can compare and contrast the environmental effects of the various alternatives (CEQ Citizen's Guide to NEPA, p. 13).

A. The EIS Fails To Adequately Analyze And Consider A Realistic No Action Alternative

Agencies must describe and analyze a "no action" alternative, i.e. what would happen if the agency did not act upon the proposal for agency action (Draft EIS, p. 2-6). A no action alternative establishes a baseline against which the proposed action and alternatives may be measured (Center for Biological Diversity v. U.S. Dep't of Interior, 623 F.3d 633 (9th Cir. 2010)). The no action alternative describes reasonably foreseeable environmental trends or planned actions in the area that would be affected by the proposed action. Importantly, the no action alternative is not a "do nothing" baseline, rather it must include a discussion of reasonably foreseeable development resulting from its adoption (*Citizens for Clean Air & Clean Water in Brazoria Cnty. v. U.S. Dep't of Transp.*, 98 F.4th 178 (5th Cir. 2024); *Young v. General Servs. Admin.*, 99 F. Supp. 2d 59 (D.D.C. 2000)).

The EIS artificially inflates the environmental impacts of the No Action alternative by rooting it to a speculative pre-2007 baseline and by failing to include foreseeable river management in a No Action alternative. The EIS states that No Action does "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." (ES-10, Table ES-1). The EIS provides no explanation as to why post-2007 operating conditions under the 2007 Interim Guidelines, are not analyzed as the No Action alternative. Instead, the EIS opines on the effectiveness of the 2007 Interim Guidelines:

> "The 2007 Interim Guidelines have not sufficiently reduced risk: Based on operational experience since 2007, the current guidelines are 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 in recent years, low-reservoir conditions have persisted, and new infrastructure risks at Glen Canyon Dam have arisen. More robust and adaptive guidelines are needed for the efficient and sustainable management of the major mainstream Colorado River reservoirs and system resources" (Draft EIS at ES-4).

In essence, the EIS states that Reclamation disagrees with status quo policies (i.e. "are not robust enough to manage the system"), but that is not an excuse for failing to analyze and disclose the real consequences of the No Action alternative. The No Action alternative leaves out substantial emergency condition response mechanisms that are currently

available to Reclamation, thereby failing to include reasonably foreseeable actions under No Action and inflating environmental impacts from No Action.

The Draft EIS states that "while the authority to use [Colorado River Storage Project] 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" (Draft EIS, p. 2-38). It goes on to state that the "Existing Intentionally Created Surplus (ICS) would be delivered in accordance with existing agreements, but there would be no new storage and delivery mechanisms" under the No Action alternative. Under current conditions, Reclamation utilizes the Upper Initial Units to deliver water to Lake Mead and Lake Powell under exigent and emergency conditions. Removing these mechanisms paints an unrealistically harsh picture of water supply conditions under No Action. It is no surprise then that the Draft EIS concludes that water supply shortages would be most severe under No Action.

It is further unclear from the Draft EIS whether the 2019 Drought Contingency Plans ("DCPs") were included in the No Action alternative. It appears they were not, even though provisions in the DCPs, even though provisions in the 2019 DCPs extend beyond 2026.

As pointed out by the Colorado River Authority of Utah in Scoping Comments, reverting back to pre-2007 Interim Guidelines is not a realistic No Action alternative (Colorado River Authority of Utah, p. 3). The Colorado River Basin State Representatives of Arizona, California, and Nevada (the "Lower Basin State Reps") agreed and went further, recommending that "certain provisions of the 2007 Guidelines and [2019 Drought Contingency Act] related to ICS extend beyond 2026 and should be included in the No Action Alternative."

Yet instead of including reasonably foreseeable operations, agreements between states, and emergency actions, the Draft EIS presents a worst-case scenario. Reclamation should have instead consulted with the Basin States on what would constitute a No Action alternative, as suggested by the Colorado River Authority of Utah, as well as the Lower Basin State Reps (Colorado River Basin State Representatives of Arizona, California, and Nevada, Scoping Letter, p. 5).

> There are outstanding questions as to what will constitute the No Action Alternative. In order for the Basin States to develop a consensus alternative, it is essential that Reclamation consult with Basin States on what will constitute the No Action Alternative as soon as possible. Colorado River Authority of Utah, Scoping Letter, p. 4.

If Reclamation had consulted with the Basin states on a No Action alternative, it could have estimated reasonably foreseeable operating agreements based on anticipated agreements between the states.

B. The EIS Fails To Disclose Rationale For Not Including an Alternative With Reduced Water Supply For Upper Basin States

The Draft EIS does not include an alternative that requires cutbacks or conservation measures by the Upper Basin States. While Reclamation concedes that upstream activities are critical to water levels at Lake Powell, and while it maintains the authority to operate the CRSP Upper Initial Units, it paradoxically excludes activities upstream of Lake Powell from the scope of the Draft EIS. It states:

> The Draft EIS does not expand the geographic scope of analysis upstream of Lake Powell. 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. (Draft EIS, p. ES-6-7).

Beyond this surface-level explanation, the Draft EIS does not justify all five proposed alternatives reducing water deliveries to Lower Basin States, with some placing additional obligations on the Lower Basin States. Even within the Maximum Operational Flexibility Alternative, the alternative presented in the Draft EIS to represent proposals by conservation organizations and the alternative intended to incentivize proactive water conservation (Draft EIS, p. 2-23), no obligations are put on Upper Basin activities and no reductions or shortages are assigned to Upper Basin States.

For the Enhanced Coordination Alternative, the Draft EIS states that "No Upper Basin conservation would be included since it would require agreements outside of Reclamation's control" (Draft EIS, p. 2-16) while the Maximum Operational Flexibility Alternative models conservation in Upper Basin states without including specific measures (Draft EIS, p. 2-23). The Draft EIS does not explain why the agreements are outside of Reclamation's control nor does it explain why proposed alternatives cannot include obligations on the CRSP initial units.

In failing to include an alternative with more equitable reductions in water deliveries, the Draft EIS falls short of NEPA's requirements, as an agency must "[r]igorously explore and objectively evaluate all reasonable alternatives" (Navajo Nation v. U.S. Forest Serv., 408 F. Supp. 2d 866 (D. Ariz. 2006)). Reclamation's own NEPA handbook states that an EIS should not "justify a predetermined action" and must be used in an "impartial manner" (Reclamation NEPA Handbook, p. 2-2).

Reclamation is of course aware of protracted negotiations between upper and lower basin states (Draft EIS, p. 1-8). These negotiations indicate that any agreement replacing 2007

Interim Guidelines will require cutbacks and conservation measures from *both* upper and lower basin states.[3] Including only alternatives that place obligations and reductions on the lower basin states is without justification and in violation of NEPA.

III. THE DRAFT EIS' DECISION TO LEAVE IMPERIAL COUNTY OUT OF ITS GEOGRAPHIC SCOPE OF ANALYSIS IS NOT REASONABLE

The Draft EIS inexplicably fails to disclose foreseeable impacts to Imperial Valley and the Salton Sea in its analysis of the Proposed Guidelines (Draft EIS, pp. 3-22 – 3-24).

NEPA requires agencies to discuss environmental effects if they are "reasonably foreseeable." 42 U.S.C. § 4332(2)(C)(i). An effect is "reasonably foreseeable" if it is "sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision." *Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir. 1992). *See also City of Dallas, Tex. v. Hall*, 562 F.3d 712, 719 (5th Cir. 2009). Agencies must engage in some degree of predictive behavior: "reasonable forecasting is implicit in NEPA, and we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as 'crystal ball inquiry.'" *Dubois v. U.S. Dep't of Agric.*, 102 F.3d 1273, 1286 (1st Cir. 1996) (an effect must be capable of description with sufficient specificity to make its consideration useful to a reasonable decision-maker). While NEPA does not mandate Reclamation to choose a particular course of action or mandate mitigation, it does require that "impacts and potential mitigation be disclosed before decision making" (Reclamation NEPA Handbook at 2-3).

[3] https://www.nytimes.com/2026/01/30/climate/governors-dive-into-an-impasse-over-colorado-river-water-use.html

EIS acknowledges impacts associated with the Salton Sea from reduced water deliveries: the "proposed federal action would also potentially affect interests of water users in the Lower Division States in service areas that extend beyond the Colorado River floodplain" (Draft EIS, p. ES-6). It even notes that under the Enhanced Coordination alternative, the Imperial and Coachella Valleys would receive 1/3 less water from the Imperial Dam, a reduction of 935,930 af in diversions (Draft EIS, p. 3-23). It goes even further, directly tying these reduced diversions to reduced inflows to the Salton Sea. The Enhanced Coordination alternative would reduce Salton Sea inflows from 1,100,000 af to 783,000 af (Draft EIS, p. 3-23).

Given NEPA's requirement to analyze foreseeable impacts, and given that the Draft EIS acknowledges that the Proposed Guidelines would severely reduce water usage in Imperial Valley and water levels in the Salton Sea, the Draft EIS' decision to leave out analysis of impacts associated with the Salton Sea is without justification. The two rationales included in the Draft EIS for leaving out Salton Sea impacts have no basis in law.

First, the Draft EIS claims that the resultant inflows would still be within the range used by the Salton Sea Management Program's Long-Range Plan (Draft EIS, p. 3-24). That projected inflows are included in a multi-decade plan as part of a worst-case outcome does not erase Reclamation's obligations to study foreseeable impacts.[4] The Proposed Guidelines, by Reclamation's own admission, are accelerating water depletion in the Imperial Valley.

Second, the EIS further claims that it cannot study Salton Sea impacts because Reclamation does not have enforcement authority over the end use and management of delivered or conserved water (Draft EIS, p. 3-24). That ignores the fundamental issue, the Proposed Guidelines would reduce water delivery in a way that would directly reduce inflows to the Salton Sea. In any impacts analysis, there are always third parties, externalities, and extenuating circumstances, in this case varying agricultural uses. Those variables do not remove the impacts of Reclamation's proposed action on the environment. No legal authority in NEPA or case law supports the Draft EIS' claims.

IV. THE EIS FAILS TO ADEQUATELY STUDY ENVIRONMENTAL IMPACTS IN IMPERIAL COUNTY

[4] *See* https://saltonsea.ca.gov/wp-content/uploads/2025/06/Salton-Sea-Long-Range-Plan-2024-Exec-Sum_508_WCAG.pdf

NEPA requires the Draft EIS to disclose "to the fullest extent possible" foreseeable impacts associated with the Salton Sea and Imperial County (*Ground Zero Center for Non-Violent Action v. United States Department of Navy*, 860 F.3d 1244, 1257 (9th Cir. 2017) ("NEPA requires disclosure 'to the fullest extent possible.' 42 U.S.C. § 4332."); *Columbia Basin Land Protection v. Schlesinger*, 643 F.2d 585, 594 (9th Cir. 1981.) ("One of the purposes of an EIS is to ensure full disclosure of the environmental consequences of a project.")). NEPA analyses should forecast foreseeable impacts where necessary (*Center for Biological Diversity v. Bernhardt*, 982 F.3d 723, 735 (9th Cir. 2020) ("Drafting an EIS 'necessarily involves some degree of forecasting"); *see also City of Davis v. Coleman*, 521 F.2d 661, 676 (9th Cir. 1975) (An agency "must use its best efforts to find out all that it reasonably can" when predicting the environmental effects of the proposed action)).

The Draft EIS has fallen short of NEPA's impact analysis requirements by failing to study foreseeable energy, air quality and other impacts from reduced inflows to the Salton Sea and from reduced water deliveries to the Imperial Valley. [@County: is it okay to use Imperial Valley and Imperial County interchangeably? Any flags?]

A. Energy Impacts

1. The DEIS fails to analyze major impacts to geothermal production and viability from reduced water supplies

The Draft EIS analyzes impacts on hydroelectric production from reduced water levels at the Glen Canyon, Hoover, Davis, and Parker Dams, but fails to analyze the impacts of reduced water deliveries on geothermal resources in Imperial County.

Reduced water supplies threaten the County's 11 geothermal plants, which rely on treated water for steam-generated energy.[5] A 2024 study summarized the water uses to operate the ~400 MW of geothermal resources currently operating in Imperial County:

> In addition to the geothermal brine used to produce energy, freshwater is needed to operate geothermal energy production facilities. Cooling towers use 70% of the freshwater as makeup water to offset water lost through evaporation in the hot SS-KGRA region [14, 21]. Freshwater is also used to dilute the brine for onsite processing and before reinjection to prevent certain constituents from precipitating and plugging the injection well. In the SS-KGRA, freshwater is purchased from the IID and treated on-site, if needed, to achieve the water quality required for each process. In 2012, the IID reported water use estimates for all geothermal facilities in Imperial County, based on self-reported data [5]. Using this historic data, we estimate geothermal facilities in the SS-KGRA purchase an average of 19,700 m3 each year for every MW of net

[5] Lithium Valley PEIR, Appendix L-1: Water Supply Assessment, Draft Lithium Valley Water Demand Memo, p. 4, *available at* https://imperialcounty.org/wp-content/uploads/2025/12/December-2025-Lithium-Valley-Specific-Plan-1.pdf

> generation capacity. The capacity factors of these facilities range between 74%–100% [2]. The water demand of individual facilities ranges widely from 493–39,500 m3 per MW annually. The variability is a result of the amount of steam condensate that is reused at each facility as well as the water consuming processes on site.[6]

While some geothermal systems can operate with minimal water input, in the Imperial County Salton Sea Known Geothermal Resource Area ("SSKGRA"), the exceptionally high mineral content of the geothermal brine makes water an essential component of both geothermal energy production and critical mineral recovery. [County Cite]

Water is also integral to the re-injection process, which keeps the geothermal resource sustainable by maintaining subservice pressure. After geothermal heat and any recoverable critical minerals are extracted at the surface, the remaining hot geothermal brine, together with the process water introduced during operations, is re-injected back into the underground reservoir. This reinjection approach has been successfully practiced in the region for more than four decades, reliant upon regional water supply. Reinjection is essential to maintaining subsurface reservoir pressure, preventing long-term resource depletion, and sustaining a closed-loop system that enables continuous energy and mineral production. [County Cite].

Where critical minerals are recovered from the brine, such as lithium, additional process water may be required to support those extraction technologies and maintain system stability. This extraction is of critical importance to the current administration, which has issued Executive Orders to accelerate critical mineral production and given out large grants and loans for lithium projects, as noted further below.

Water is a foundational requirement for geothermal energy production in the SSKGRA, and these resources cannot be successfully developed in the region without it. Reduced water deliveries to the Imperial Valley not only threaten current geothermal operations, but also threaten the significant growth in geothermal energy that is planned for the region and supported by federal, state, and regional governments.[7] Imperial County's Known Geothermal Resource Area has the potential to generate 3,000 MW annually from geothermal resources alone. Geothermal energy is not only an exploitable domestic source of energy, but also improves electric grid stability, grid reliability, and grid resiliency, as geothermal facilities "provide[] a sustainable and stable source of electricity and are characterized as a baseload renewable resource" that can "help to restart the grid" (AB1657 Blue Ribbon Commission Report, December 2022). However, ramping up from

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[6] Busse et al., Impact of geothermal expansion and lithium extraction in the Salton Sea known geothermal resource area (SS-KGRA) on local water resources, Environmental Research Letters (September 2024), *available at* https://iopscience.iop.org/article/10.1088/1748-9326/ad6a73/pdf

[7] https://imperialcounty.org/wp-content/uploads/2025/12/December-2025-Lithium-Valley-Specific-Plan-1.pdf

400 MW to 3,000 MW of production in Imperial County will require water. Reduced deliveries to the Imperial Dam and from it to Imperial County would impede development of geothermal and lithium/mineral extraction, given competing water uses in the region.

Impeding the County's geothermal potential would not only impact the grid and energy independence, it would also result in severe air quality and greenhouse gas impacts which have not been analyzed in the EIS. Without expanded geothermal power, a renewable source of baseload power,[8] higher polluting natural gas power plants or other fossil fuel sources of baseload power will fill the gap by staying online or expanding.[9] The DEIS must study these impacts.

2. The DEIS fails to analyze major impacts to lithium extraction and battery production from reduced water diversions at the Imperial Dam

Lithium production in Lithium Valley not only uses water but is also related to geothermal production. Reduced geothermal production also substantially reduces the amount of lithium that can be extracted from SSKGRA brine. As the Lithium Valley Programmatic Environmental Impact Report describes, "[i]n Lithium Valley, brine can be extracted from the geothermal reservoir and serve as two beneficial resources: (1) a heat and pressure source for geothermal electricity production, and (2) a source of lithium. Lithium is dissolved in the brine, which is estimated to contain 4.1 to 18 million metric tons of lithium carbonate equivalent."[10] The lithium extraction potential from Imperial County is tremendous and tied closely to geothermal production, which is highly dependent on water supply. 3,000 MW of geothermal production in Imperial County would result in 600,000 tons of lithium produced a year,[11] enough to support over 375 million electric vehicle batteries according to the California Energy Commission.[12]

The proposed alternatives in the EIS would be a water supply shock to the region, not only impacting agricultural uses but also reducing the ability of the County to scale up geothermal and lithium production, with attendant climate and health impacts. The DEIS must be revised to account for these impacts.

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[8] https://www.sciencedirect.com/science/article/pii/S2666188825008081
[9] Lithium Valley PEIR, p. 2-2."While Lithium Valley currently contains ~400 megawatts (MW) of electricity production, the geothermal capacity of the region is estimated to be over 2,500 MW. (2023 National Labs.) Such energy sources qualify as low carbon energy under the State's renewable portfolio requirements, which mandate 90% of electricity be sourced from renewables by 2035 and 100% by 2045. (Pub. Util. Code § 454.53.)"
[10] Lithium Valley PEIR, p. 1-84.
[11] Lithium Valley PEIR, p. 1-84.
[12] California Energy Commission, Lithium Valley Vision, https://www.energy.ca.gov/programs-and-topics/programs/lithium-valley-vision

A Berkeley Labs study recently demonstrated how energy production in Lithium Valley, despite not putting a strain on the region's water resources, could be jeopardized by the Colorado River (or in this case the Proposed Guidelines).[13]

B. Air Quality Impacts

1. The DEIS fails to account for particulate matter impacts from reducing water levels in the Salton Sea

The DEIS concedes that the Proposed Guidelines could reduce inflows to the Salton Sea by about one-third. Resulting drying of the Salton Sea will result in impact to air quality and public health which have not been disclosed in the EIS. Over the past few decades, the dried lakebed due to the receding Salton Sea has released dust (PM_{10}) into the air, dust that contains pesticides and other toxic substances. A recent study estimated that soon 40 percent of the Salton Sea will be exposed to wind erosion, increasing PM10 emission 11% locally.[14] The upshot of this exposure is elevated rates of asthma and other respiratory conditions, especially in children.[15] The Proposed Guidelines promise to accelerate the drying out of the Salton Sea, yet the DEIS does not study resulting air quality impacts, nor does it consider mitigation measures. Reclamation could include any number of mitigation measures in a dust control plan, including funding chemical stabilizers, vegetation tailored to dust control, water conservation measures, or air filters to mitigate respiratory impacts.[16]

2. The DEIS fails to account for particulate matter impacts from reduced water usage for dust control

[13] Dobson et al., Characterizing the Geothermal Lithium Resource at the Salton Sea, available at https://escholarship.org/content/qt4x8868mf/qt4x8868mf.pdf.
[14] https://pmc.ncbi.nlm.nih.gov/articles/PMC12788894/
[15] https://pmc.ncbi.nlm.nih.gov/articles/PMC12788894/
[16] *See* Fugitive Dust Control Measures and Best Practices, U.S. Environmental Protection Agency (Jan. 2022), https://www.epa.gov/system/files/documents/2022-02/fugitive-dust-control-best-practices.pdf. *See also* Lithium Valley PEIR, pp. 4.3-1 – 4.3-80.

Another major air quality impact completely ignored by the DEIS is impacts on water use within the Imperial Valley that are *approved and recommended by the federal government* to control dust in construction, paving, and other activities. While the County's Air Quality Management Plan enables both water and chemical treatments to control dust,[17] the preferred method is water treatment, and the vast majority of treatment today (~95%) is with water. Reduced diversions from the Imperial Dam will shift the balance away from water treatment towards more expensive chemical stabilizers. Not only are the chemical stabilizers used for dust control much more expensive [County Cite?], their health impacts are undisclosed in the DEIS. Dust suppression solutions may include chemicals and pollutants such as PFAS that when airborne are associated with a number of significant health risks.[18]

The DEIS contains no analysis of health impacts from increases in fugitive dust due to reduced water allocations in the Proposed Guidelines. There is similarly no analysis of the degree to which the action may adversely affect communities with environmental justice concerns. These foreseeable impacts are absent from the DEIS.

C. Biological Resources Impacts

1. The EIS fails to adequately analyze the impacts of the Proposed Guidelines on species that rely on the Salton Sea

[17] https://apcd.imperialcounty.org/wp-content/uploads/2020/01/2018PM10PlanBoardPacket.pdf

[18] Our Current Understanding of the Human Health and Environmental Risks of PFAS, Environmental Protection Agency, https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas.

An EIS should include "any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;" (42 U.S.C. § 4332(C)(ii.) The agency must analyze "the intensity of effects." (NEPA Regulation § 1501.3(d)(2.) That includes "The degree to which the action may adversely affect an endangered or threatened species or its habitat, including habitat that has been determined to be critical under the Endangered Species Act of 1973." (NEPA Regulation § 1501.3(d)(2)(vi.) NEPA Regulation § 1502.16(a) imports the § 1501.3 discussion of "significance of those effects" requirement into the required environmental consequences section of an EIS.

Furthermore, the EIS to be prepared must contain high-quality information and accurate scientific analysis. *Lands Council v. Powell*, 395 F.3d 1019, 1031 (9th Cir. 2005.) If relevant data is not available or not complete the EIS must disclose that fact. (Id.). Despite being alerted by scoping comments about the potential effects that major reductions in water could have on species habitat on the Salton Sea, Reclamation chose to ignore the effects of biological resources on migratory birds, native vegetation, and other species that rely on the Salton Sea. The U.S. Environmental Protection Agency recommended analyzing such impacts in its scoping letter:

> In addition, discuss the impacts of the alternatives on sensitive or ecologically diverse areas that depend on Colorado River water, including consistency with the Lower Colorado River Multi-Species Habitat Conservation Plan and the effects upon the Salton Sea. Address the prolonged drought that has prompted major reductions in water deliveries to the Imperial and Coachella Irrigation Districts and the transfer or sale of their water supplies away from agriculture toward cities in coastal southern California (Los Angeles and San Diego). Describe the ecological and temporal ramifications of any proposed reductions in water on migratory birds, fish, and wildlife populations, and how reductions may affect state and federal efforts to create or restore wetlands and wildlife habitat in the area. Address how restoration projects, as well as proposed lithium development in the Salton Sea region, may require augmentation of water supplies from the Pacific Ocean, the Sea of Cortez, or from reuse in Tijuana, Mexico and what direct, indirect, and cumulative effects may be attributed to imported water into the system. (EPA Scoping Letter, p. 10):

The State's Salton Sea Management Program notes the importance of water levels at the Salton Sea to migratory bird species:

> As the Salton Sea shrinks for a variety of reasons, air quality in Riverside, Imperial, and surrounding counties suffers, because particulates small enough to be dangerous to human health are picked up by the wind from the exposed lakebed. Huge populations of resident and migratory birds are at risk, too, especially the fish-eating birds that depend upon the tilapia that will no longer be able to survive in the Salton Sea if it grows increasingly salty. Sustainable habitat and air quality management at the Salton Sea is critical for the protection of regional public and

ecological health, as well as the management of a stable Colorado River supply for California.[19]

The DEIS alone fails to analyze foreseeable biological resources impacts.

D. Socioeconomic Impacts

Under NEPA, human beings are part of the environment (42 U.S.C. §§ 4321–4347), so when an EIS is prepared and economic or social and natural or physical environmental effects are interrelated, the EIS should discuss all of these effects (CEQ Citizen's Guide to NEPA, 15).

1. The EIR Does Not Adequately Analyze Socioeconomic Impacts From Diminished Agricultural Production

The DEIS acknowledges that Imperial County is highly dependent on agriculture and studies the impact of fallowing on the County: "Farm employment made up a larger percentage of the total employment in Imperial County than the rest of the counties in the analysis area" (Draft EIS, p. 16-12). However, it fails to account for the degree to which the rest of county employment depends on agriculture, and the extent to which county tax revenues depend on agriculture. A 2021 report found that 20,412 jobs in Imperial County were attributable to the agricultural industry, and one in six workers in Imperial County were employed in jobs directly attributable to the industry.[20]

The DEIS further fails to account for the socioeconomic impacts from reduced water flows hindering Lithium Valley geothermal and lithium production. As a result it greatly underestimates economic losses and job losses.

Even while leaving out large categories of impacts, the DEIS estimates an annual reduction of $1.0 billion in total economic output under the Enhanced Coordination Alternative (Draft EIS, p. 3-178). County workforce and economic development experts estimate that the Proposed Guidelines could result in $248.9 million in economic losses, up to 700 jobs lost, nearly $750,000 in lost sales tax revenue, and $6.5 million in lost local spending (**Attachment A**: Workforce & Economic Development Analysis). These estimates are conservative as they do not account for impacts on energy production or from urban decay, which are reasonable foreseeable impacts of lower water supplies to the County.

[County to add anything else they have here and/or modify references to Attachment]

[19] Draft Salton Sea Management Plan, p. 26.
[20] Economic Contributions of Imperial County Agriculture, Imperial County (August 2021), *available at* https://agcom.imperialcounty.org/wp-content/uploads/2021/08/2021-Economic-Contribution-of-Imperial-County-Ag.pdf.

The DEIS also fails to disclose health and environmental impacts from urban decay that are foreseeable should the County's water supply be reduced to levels in the Proposed Guidelines, levels that threaten both the County's current economic driver, agriculture, and potential future economic driver, energy.
Because the proposed reductions spell economic catastrophe for the region, Reclamation should strongly consider the No Action alternative in a revised draft or supplemental EIS that includes mitigation measures that protect counties like Imperial County that are highly dependent on water resources for economic sustainability. The Draft EIS notably includes no plans to fund fallowing of land: the federal government has previously funded programs like the Deficit Irrigation Program in Imperial County to mitigate economic impacts from low Colorado River flows.[21] A supplemented EIS should include plans to fund fallowing for alternatives with large reductions in river flows.

E. Population and Land Use

1. The EIR fails to analyze the environmental impacts of crop switching

The DEIS finds that multiple alternatives would result in large scale fallowing of land and crop switching in the lower basin states. Describing land use impacts in the Enhanced Coordination alternative: the DEIS declares "[p]ro rata distribution mitigates concentrated impacts for junior users but introduces broader reductions, increasing risk of widespread crop switching and fallowing in both Arizona and California." Despite these findings, the DEIS contains no analysis of the environmental impacts of such crop switching, on water, air quality, or biological resources. Large-scale fallowing of land will create foreseeable environmental impacts that must be analyzed within the EIS.

V. THE DRAFT EIS DOES NOT DISCLOSE CONFLICTS WITH FEDERAL AND STATE PLANS

NEPA Regulation § 1502.16(a)(4) requires in pertinent part that an EIS "shall include an analysis of:" (4) Where applicable, possible conflicts between the proposed action and the objectives of Federal, regional, State, Tribal, and local plans, policies, and controls for the area concerned, including those addressing climate change (§ 1506.2() of this subchapter); Reclamation's Draft EIS failed to even disclose, let alone analyze, possible conflicts between the proposed action and the objectives of Federal and State plans, policies and controls for the area concerned.

[21] https://www.iid.com/water/water-conservation/deficit-irrigation-program

A. The DEIS fails to disclose consistency with federal air quality management plans

As discussed above, the Imperial County Air Quality Management Plan, a state implementation plan under the federal Clean Water Act, requires dust control measures in order to contain PM10 levels in Imperial County. These measures are directed specifically to address the fugitive dust issue within the region caused by receding water levels at the Salton Sea and exacerbated by certain developments such as construction and paving. Under this management plan, treatment with water is not only recommended but required for development activities.[22] The EIS not address the inconsistency between the Proposed Guidelines reducing water apportionments while the Clean Air Act requires controlling dust with water. NEPA explicitly requires such analyses to avoid situations where federal obligations conflict, and this is one such circumstance. *Calvert Cliffs' Coordinated Committee v. Atomic Energy Commission,* 449 F.2d 1109 (D.C. Cir. 1971), cert. denied, 404 U.S. 942 (1972).

B. The DEIS fails to disclose how energy impacts impede federal energy reliability plans

As detailed above, reduced water deliveries to Imperial Valley will greatly impede lithium development. Lithium battery storage systems assist electric service providers by integrating with renewable energy resources to provide evening and off-peak electric generation (Assembly Bill 2514 [2010], § 1). Batteries are in demand, as they provide considerable grid benefits. California alone has estimated a battery storage demand of 37 gigawatts by 2045 (CARB 2022).

Developing local sources of lithium is necessary to minimize national security threats: "Our national and economic security are now acutely threated by our reliance upon hostile foreign powers' mineral production. It is imperative for our national security that the United States take immediate action to facilitate domestic mineral production." (The White House, March 2025). Federal regulations characterize lithium as an "Applicable Critical Material." That label emphasizes reducing reliance on foreign controlled sources of lithium (88 FR 51792) (promulgated pursuant to 30 U.S.C. 1606(a)(3); Pub. Law 117-169; 26 USC § 45X(a)(6)(P)).

Evidence of the federal government's interest in developing Lithium Valley is the numerous federal grants and loans disbursed within the County to explore and extract lithium. In January 2025, the Department of Energy's Loan Programs Office announced a

[22] https://apcd.imperialcounty.org/wp-content/uploads/2020/01/2018PM10PlanBoardPacket.pdf

1.36 billion loan to "finance the construction, equipping, and operation of a facility in Imperial County, California, to produce lithium hydroxide from geothermal brine."[23]

VI. THE DRAFT EIS DOES NOT INCLUDE A REASONABLY COMPLETE DISCUSSION OF MITIGATION MEASURES TO IMPACTS IN IMPERIAL VALLEY

NEPA requires the discussion of mitigation measures in impact statements by requiring the discussion of "any adverse environmental effects which cannot be avoided." Section 102(2)(C). CEQ regulations implement this requirement by requiring the discussion of mitigation measures in impact statements. 40 C.F.R. §§ 1502.14(f), 1502.16(h). *See also* 40 C.F.R. § 1505.2(2)(c) (requiring inclusion of mitigation measure discussion in record of decision). CEQ regulations define mitigation as "rectifying" environmental impacts by repairing, restoring or rehabilitating the affected environment, reducing or eliminating the impact over time through preservation or maintenance, and compensating for the impact by providing substitute resources. The Supreme Court held that the requirement that an agency discuss mitigation measures is implicit in "NEPA's demand" and CEQ regulations. Robertson v. Methow Valley Citizens Council, 490 U.S. 332 (1989). The omission of a "reasonably complete discussion" of mitigation measures would undermine NEPA's action-forcing functions. Without such a discussion, the neither the agency nor other interested groups or individuals could properly evaluate the severity of the adverse effects of the action.

An EIS that does not discuss mitigation measures is not compliant with NEPA.

> [O]mission of a reasonably complete discussion of possible mitigation measures would undermine the "action forcing" function of NEPA. Without such a discussion, neither the agency nor other interested groups and individuals can properly evaluate the severity of the adverse effects (Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 352, 371 (1989)),

As discussed in prior sections, the DEIS includes no consideration of mitigation measures to defray the considerable energy, air quality, biological resources, and socioeconomic costs from drastically lower river diversions into Imperial Valley and resulting impacts to the Salton Sea. This absence of discussion is in violation of NEPA.

[23] Department of Energy, LPO Announces Conditional Commitment for Project ATLiS for Lithium Hydroxide Production in California, (Jan. 15, 2025) available at https://www.energy.gov/edf/articles/lpo-announces-conditional-commitment-project-atlis-lithium-hydroxide-production

VII. THE DEIS FAILS TO DISCLOSE THE IMPACTS OF CLIMATE CHANGE ON COLORADO RIVER WATER LEVELS AND THE IMPACTS OF THE PROPOSED GUIDELINES ON GREENHOUSE GASES

The Draft EIS includes no discussion of the project's impacts associated with greenhouse gasses and climate change, which has already impacted Colorado River flows, which have been reduced by nearly 20 percent since 2000.[24] This omission simply ignores the substantial evidence demonstrating that Colorado River flows are lower because of climate change.[25] The omission is a fundamental flaw in the entire EIS and fundamentally skews the analysis and accuracy of the alternatives analysis in the DEIS. Without accounting for a major factor influencing flows. This precludes the Bureau of Reclamation from meeting its statutory obligations to consider a reasonable range of alternatives and weigh their impacts, as required by NEPA (42 U.S.C. §4332(C)(iii.))?

The Draft EIS also includes no discussion of the Proposed Guidelines impacts on greenhouse gases ("GHG") and by proxy climate change. As detailed in Section [ ], the Proposed Guidelines would impede carbon-free geothermal production in Imperial County by reducing water supply for geothermal production. The Proposed Guidelines would also reduce the potential to produce lithium in Imperial County, as that potential is tied to geothermal production. Lithium plays an integral role in decarbonization. It enables battery storage systems that can pair with solar and wind resources to produce renewable power throughout the day. Furthermore, Imperial County has the potential to produce enough lithium for 375 million electric vehicle batteries.[26] Such production would facilitate major decarbonization of mobile sources.

The DEIS should have analyzed the GHG impacts of reduced water supplies to Imperial County and its energy production plans. Courts have held that where GHG emissions were foreseeable and significant, they must be analyzed within the NEPA process (*Sierra Club v. Federal Energy Regul. Comm'n*, 867 F.3d 1357 (D.C. Cir. 2017); *see also Food & Water Watch v. Federal Energy Regul. Comm'n*, 28 F.4th 277 (D.C. Cir. 2022) (FERC violated NEPA by failing to consider the reasonably foreseeable downstream effects of increased greenhouse gas emissions from approval of a natural gas pipeline and compressor station); *Sovereign Iñupiat for a Living Arctic v. Bureau of Land Mgmt.*, 555 F. Supp. 3d 739 (D. Alaska 2021) (NEPA violation when BLM failed to consider downstream greenhouse gas emissions from foreign consumption of oil and gas); *Utah*

[24] A River in Crisis, The Nature Conservancy (Aug. 2022), https://www.nature.org/en-us/about-us/where-we-work/priority-landscapes/colorado-river/colorado-river-in-crisis
[25] Hoerling et al., Causes for the Century-Long Decline in Colorado River Flow, Journal of Climate (Dec. 2019), https://journals.ametsoc.org/view/journals/clim/32/23/jcli-d-19-0207.1.xml.
[26] California Energy Commission, Lithium Valley Vision, https://www.energy.ca.gov/programs-and-topics/programs/lithium-valley-vision

Physicians for a Healthy Env't v. U.S. Bureau of Land Mgmt., 528 F. Supp. 3d 1222 (D. Utah 2021) (BLM violated NEPA by failing to quantify the socioeconomic costs of direct and indirect GHG emissions in a coal lease expansion)).

The DEIS does not address how the existing and future effects of climate change—such as increased temperatures, sea-level rise, or increased storm frequency—will interact with the project over its lifetime. The agency must analyze whether the project itself is resilient to these changes or if it will exacerbate the vulnerability of surrounding communities to climate risks.

VIII. CONCLUSION

Reclamation has failed to proceed in the manner required by NEPA. Reclamation's Draft EIS is legally insufficient. Before proceeding to issue a Final EIS, Reclamation must first prepare a revised draft or supplemental EIS for public review and comment that (1) includes an alternative with a more equitable distribution of reductions between upper and lower basin states, (2) analyzes the impacts of reduced flows on Imperial County and the Salton Sea, and (3) considers mitigation measures to address these impacts. The contact for this comment letter is [_____]. Please reach out with any questions you may have

Very truly yours,

[_____]

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