REGION 9
SAN FRANCISCO, CA 94105

April 8, 2024

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U.S. Bureau of Reclamation
Lower Colorado Basin Regional Office
Bureau of Reclamation
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Subject: Final Supplemental Environmental Impact Statement for Near-Term Colorado River Operations, Lower Basin States of Arizona, California, and Nevada (EIS No. 20240039)

Dear Wayne Pullan and Jacklynn Gould:

The U.S. Environmental Protection Agency has reviewed the Bureau of Reclamation's above-referenced document pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508) and our NEPA review authority under Section 309 of the Clean Air Act. The CAA Section 309 role is unique to EPA. It requires EPA to review and comment publicly on any proposed federal action subject to NEPA's environmental impact statement requirement and to make its comments public.

Reclamation is proposing to revise the 2007 Interim Guidelines for the operation of Glen Canyon and Hoover Dams beginning in the 2024 operating year to address the potential for continued low-runoff conditions in the Colorado River Basin. The potential impacts of low runoff conditions in the remainder of the interim period (until January 1, 2027) pose

unacceptable risks to routine operations of Glen Canyon and Hoover Dams; therefore, modified operating guidelines have been expeditiously developed. Reclamation has identified the Proposed Action as the Preferred Alternative in the Final SEIS.

In our Draft Supplemental EIS letter, EPA identified areas for improvement in the analysis and recommended these be addressed in the Final SEIS in addition to informing decision-making for post-2026 operations. We included recommendations to incorporate new environmental justice policy guidelines into the analysis, address impacts to Tribes or communities with environmental justice concerns, and include mitigation of air quality problems and health effects in the Salton Sea area that may be exacerbated by reduced water deliveries.

We recognize there is an ongoing regional effort among multiple stakeholders to reduce the impacts from fugitive dust in the region and EPA appreciates that Reclamation included additional information about fugitive dust and respiratory health in the Final SEIS. We continue to recommend, especially in the Post-2026 NEPA document under development, identifying other areas in the Basin that would have similar dust control issues with reduced water deliveries and work with partners to create or require dust management plans for those areas. In collaboration with the Corps, the California Natural Resources Agency, Tribes, and water districts, include and commit to prioritizing and expediting dust abatement measures to address existing concerns of communities currently experiencing high environmental and health disparities, including communities with environmental justice concerns.

EPA appreciates Reclamation's commitment to further coordination and involvement with communities with environmental justice concerns in the development of the post-2026 EIS (p. H-53). For the development of the Post-2026 Guidelines, EPA encourages Reclamation to work in cooperation with states, Tribes, and water districts to identify communities that would have no or limited alternate domestic or municipal supplies; and to develop and include emergency plans to direct a portion of delivered water to those identified communities. In support of the Administration's Justice 40 Initiative, consider directing a portion of Reclamation funding available for water resiliency projects or drought relief to impacted communities, with at least 40% of the benefits going to communities with environmental justice concerns.

The Final SEIS recognizes federal government trust responsibilities for the protection of *quantified* Tribal water rights in Section 3.18, but notes that fewer than half of the 30 Tribes with entitlements or reserved rights within the Basin have contracts or partially resolved, adjudicated rights to water from the Colorado River (pgs. 4/3-4). Although the Tribes do not currently use all their reserved water rights, existing Colorado River allocations and agreements are based on continued undefined and uncompensated Tribal rights. Existing and potential shortages where demand exceeds supply will only exacerbate the ability of Tribes to overcome historic inequities and develop these assets for their own benefit. The EPA finds it reasonable to assume that Tribal claims to Colorado River water eventually could be quantified, developed, or delivered. We continue to request clarification on how the changes to near- or long-term operational guidelines would affect the exercise of indigenous rights or Tribal health and safety.

In anticipation of the development of Post-2026 operational guidelines, under current or separate NEPA analyses, discuss opportunities to specifically addresses unallocated Tribal claims to Colorado River water, document future challenges and disparities and enlist a mechanism for conflict resolution among competing water users. In consultation with Tribes, uphold federal trust responsibilities to protect all present and future Tribal rights and claims to Colorado River water by enacting policy, regulatory and statutory changes that include administrative flexibilities and potential mitigation for the full beneficial and economic use of Tribal water.

The EPA appreciates the opportunity to provide comments and participate in the process to develop sustainable and equitable guidelines for operating the Colorado River basin water supply. We have previously requested to be a Cooperating Agency under NEPA for future analysis of Colorado River operations and will be submitting a separate formal request this month. If you have any questions, please contact me at prijatel.jean@epa.gov or (415) 947-4167 or Stephanie Gordon, the lead reviewer for this project at gordon.stephanies@epa.gov.

Sincerely,

JEAN PRIJATEL

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Jean Prijatel
Acting Manager
Policy and Operations Branch