



COLORADO RIVER INDIAN TRIBES

OFFICE OF THE ATTORNEY GENERAL

August 2, 2026

Ms. Carly Jerla
Bureau of Reclamation
Attn: BCOO-1000
P.O. Box 61470
Boulder City, NV 89006
Via email: crbpost2026@usbr.gov

Re: Comments from the Colorado River Indian Tribes on the Final Environmental Impact Statement on Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead.

Dear Ms. Jerla:

The Colorado River Indian Tribes (CRIT), a federally recognized Tribal Nation, respectfully submits the following comments on the Final Environmental Impact Statement for Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead (FEIS) published by the Bureau of Reclamation (Reclamation) on July 31, 2026. This letter supplements CRIT's February 25, 2026 comments on the Draft Environmental Impact Statement (DEIS), which CRIT incorporates by reference in its entirety.

CRIT holds the most senior tribal present perfected rights (PPRs) on the lower Colorado River, and the decisions Reclamation makes in the forthcoming Record of Decision (ROD) will directly affect the Tribe's water, the viability of the Colorado River Indian Reservation as a permanent homeland, and the River itself. As the FEIS acknowledges, the Tribal Council has recognized the River as a living being entitled to protection under CRIT law.

CRIT appreciates Reclamation's selection of a Preferred Alternative based on the priority system under the Consolidated Decree. CRIT also recognizes the work of Deputy Commissioner David Palumbo, Ms. Geneieve Johnson, and the Reclamation/Solicitor's Office team, who have made numerous trips to CRIT and engaged with Tribal Council and CRIT's legal and technical team on actions designed to protect, develop, and enhance our water resources.

Nonetheless, CRIT objects to Reclamation's rushed approval process, which makes it difficult to provide thorough and comprehensive comments on the FEIS prior to execution of a Record of Decision. Quite simply, this rushed process is an affront to our status as a sovereign nation. By limiting our review, the Administration is limiting our ability to be fully informed and make decisions for ourselves—the very essence of sovereignty.

We are also aware that Reclamation has been sharing documents regarding the NEPA process with the Basin States representatives throughout much of this NEPA process. While on its face, we have no objection with Reclamation sharing documents with the States, we do object that it is being done without any co-equal interaction and discourse with CRIT, so that we may similarly influence the process. CRIT holds water rights to over 23% of Arizona's entire allocation of Colorado River water under *Arizona v. California*. Our limited role in this process does not reflect the nature and extent of our water rights. And while CRIT appreciates those revisions in the FEIS made in response to its comments, these revisions do not cure the procedural and substantive defects detailed below.

I. The short interval between publication of the FEIS and the anticipated ROD affords no meaningful opportunity for review, comment, or consultation.

Reclamation published the FEIS on Friday, July 31, 2026, and we understand a ROD may be forthcoming as early as Monday, August 3, 2026. In its February 25, 2026, comments on the DEIS (DEIS Comments), CRIT requested a minimum 45-day comment period on the FEIS and stated that anything less would not permit meaningful review of a document of this importance. CRIT also requested that any new alternative be circulated for public review in a revised or supplemental draft EIS. Neither request was honored.

The Preferred Alternative in the FEIS includes a shortened 10-year decision framework with new operational principles, sideboards, and two-year guideline adoption intervals, making its on-the-ground impacts difficult to assess. This alternative was not included in the DEIS and thus has never been subject to public review.

The FEIS revisions are extensive. The Preferred Alternative is “carried throughout the Executive Summary, EIS, Appendices, and Technical Appendices,” and figures, tables, appendices, resource chapters, modeling assumptions, and supporting information were revised and new appendices added. FEIS at 1-33 to 1-34. The revised impacts analysis is presented through multi-indicator matrices and heat maps across thousands of pages and more than 30 appendices. Yet, the FEIS identifies the revisions from the DEIS only as a short, bulleted list of “notable changes.” FEIS at 1-33. It provides no redline, comparison version, or list of changes identified by page and section, leaving the public unable to discern what was altered, added, or deleted. The FEIS also contains no specific responses to the detailed comment letters submitted by CRIT and others, instead responding based on general “themes.”

In short, it is impossible for CRIT to evaluate the FEIS within the extremely brief period provided. While Reclamation shared with CRIT the general outline of what the Preferred Alternative might look like in a Power Point on July 27th, that is no substitute for allowing a meaningful review period on the FEIS's actual analysis. The limited comments provided in this

letter should not be construed as suggesting that the Tribes had an adequate opportunity to review, comment on, or exhaust any issues in the FEIS.

The timelines for review and potential engagement with Reclamation regarding the FEIS reflect a violation of the Department's trust obligations to CRIT. The FEIS states that "future tribal consultation requirements" will be set forth in the ROD. FEIS R-15. Thus, CRIT is being informed—rather than consulted—about future consultation opportunities.

In 1922, Tribal Nations were excluded from the negotiations that led to the Colorado River Compact. In 2007, Tribal Nations were excluded from the development of the Guidelines. And now in 2026, little has changed as Tribal Nations still find themselves excluded from the process. Adding insult to injury, the process is set up so that Tribal Nations like CRIT have only one business day to review the results of the FEIS before Reclamation is primed to make a final decision for a 10 year plan that has the potential to substantially affect our water resources.

We request that Reclamation defer issuance of the ROD and reiterate our earlier request for a comment period of not less than 45 days on the FEIS before any decision is made.

II. The FEIS fails to address CRIT's concerns about water distribution and modeling.

The "Response to Public Comment" appendix does not specifically respond to any of CRIT's comments. Instead, this appendix provides a summary of "themes" among the comments received. It does not discuss if or how Reclamation changed its analysis in response to CRIT's comments. CRIT alone submitted more than forty pages of substantive comments. Reclamation's website indicates Reclamation received over 785 unique submissions from the public, tribes, states, federal agencies, NGOs, and other stakeholders. The summary response appendix is patently inadequate to address all of the substantive comments submitted. We identify below several of CRIT's specific concerns that were not addressed in the FEIS.

A. The FEIS retains the pro rata alternatives despite acknowledging they cannot be legally implemented.

CRIT recognizes that Reclamation's Preferred Alternative is based on priority and appreciates the agency's repeated acknowledgment that any deviations from established law would require voluntary arrangements. *See* FEIS at 2-9 ("The allocation of shortages would be based on applicable law, including the Consolidated Decree. Deviation from applicable law would occur only if water entitlement holders have reached voluntary arrangements."); 2-11, fn. 7 ("absent voluntary arrangements, the distribution of shortages would be based on applicable law (i.e., the priority system)"). CRIT also appreciates the acknowledgment by Reclamation that "[n]othing in the EIS is intended to modify tribal water entitlements." FEIS at R-15.

CRIT, however, objects to the continued inclusion of pro rata alternatives in the FEIS. As we have repeatedly stated, and as the FEIS concedes, pro rata distribution would violate the injunctive mandate of the Consolidated Decree in *Arizona v. California*, the *Winters* doctrine, and the doctrine of prior appropriation. It would also violate the United States' trust obligation to the Tribes and violate the prohibition of Takings under the Fifth Amendment.

Reclamation acknowledges this, stating that it “cannot unilaterally implement certain operational elements included and analyzed in the Draft EIS, as many of these actions would require implementation agreements among various Basin entities.” FEIS, Appendix R-15. It asserts that “the broad range of alternatives” in the DEIS merely “provides environmental compliance for alternative approaches to distributing water deliveries and any shortages” in the event the Basin States and tribes come to voluntary agreements to share shortage. *Id.*

An alternative that the agency cannot implement without violating the injunction of the Supreme Court in *Arizona v. California*, is not a reasonable alternative under the National Environmental Policy Act (“NEPA”). CRIT objects to the retention of the pro rata alternatives to the extent that Reclamation asserts they would provide potential NEPA coverage for future decisions based on non-voluntary pro rata shortage distribution, decisions the Tribes would challenge as unlawful. Such decisions would constitute a new NEPA project and require new NEPA analysis and a new Record of Decision. CRIT reserves its right to challenge any such future decisions as a violation of NEPA and the Tribes’ vested water rights.

B. The FEIS still does not describe how dead pool reductions would be allocated.

In its DEIS Comments, CRIT objected that Reclamation had not disclosed how it would distribute shortages in dead pool scenarios. The FEIS fails to provide more guidance even though it predicts frequent dead pool-related constraints, including in the Preferred Alternative. See FEIS at R-10-11 (“no alternative included any specific criteria or methodology for the distribution of dead pool-related reductions”).

Under the Consolidated Decree, lower priority rights must be reduced as necessary to avoid dead pool condition. A framework that leaves the framework for shortage distributions during dead-pool scenarios to the discretion of Secretary does not satisfy the Decree and does not protect CRIT or other priority water rights holders.

C. The FEIS does not address CRIT’s concerns about consumptive use modeling.

In its DEIS Comments, CRIT asked that any discussion of its historic consumptive use acknowledge BIA’s chronic underfunding of the Colorado River Indian Irrigation Project (CRIIP) and requested that modeling and storage credit analysis be based on diversion entitlement rather than historic consumption. The FEIS continues to acknowledge that “[u]ndeveloped water may be due to a lack of the infrastructure needed to divert, transport, and/or use water” and that its analysis “should not be construed to, in any way, preclude or limit any ongoing or future tribal development of water rights.” FEIS at TA 18-7. However, it does not include the requested corrections. We are deeply concerned that our trustee is showing how CRIT’s unused water is available for use by junior appropriators while also failing to acknowledge that our ability to more fully use our decreed water rights is directly linked to the efficiency, or lack thereof, of the CRIIP. While it may not be politically inconvenient to acknowledge, the uncontroverted fact is that years of decisions made by the Bureau of Indian Affairs (BIA) not to adequately fund the CRIIP is directly linked to our inability to more fully put water to use. The FEIS must recognize BIA’s conscious decision-making over the years to

inadequately fund the CRIIP is the reason why CRIT is unable to more fully utilize its water rights.

D. The FEIS fails to include adequate mechanisms for compensation of conserved consumptive use.

CRIT notes that the proposed Preferred Alternative combines a priority-based framework with a storage compensation mechanism, the Federally Managed Water Resources Pool (FEIS at B-57), a combination not previously considered in the DEIS. However, the FEIS lacks key information about implementation of this mechanism such as accounting methodologies necessary to fund and track tribal forbearance throughout the Basin.

E. A living River is essential to the welfare of CRIT and its members.

CRIT appreciates the reference in the FEIS to the Tribal Council Resolution stating that the Colorado River as a living being. FEIS TA 13-7.

CRIT reiterates that a living River that rises and falls with the seasons, has an active channel, energizes the broader ecosystem, and provides a place for tribal members to gather culturally, spiritually, religiously, as well as economically, is at the heart of CRIT society, is essential to the overall health and welfare of its members, and is necessary to achieve a homeland. As a result, despite being authorized under *Arizona v. California* and other western laws such as the doctrine of prior appropriation, CRIT experiences harm to its members, its culture, and its sovereignty when water allocated to CRIT is unable to be consumptively used on reservation lands and is diverted from the River for use elsewhere without CRIT's approval.

III. CRIT's other comments were also largely unaddressed.

CRIT cannot adequately evaluate the new information in the FEIS before the expected release of the ROD on August 3, 2026, but note the following concerns.

A. Socioeconomic impacts

The FEIS environmental analysis misrepresents the socioeconomic impacts to CRIT by aggregating all Arizona tribes (both CAP and PPR) in Chapter 3. See FEIS at 3-190 ("economic contributions and social conditions from agriculture"). In particular, it states "for Arizona tribal entitlement holders, lower impacts on economic and social conditions due to reductions in agricultural production would occur under alternatives with pro rata shortage distribution methods, and higher impacts occur under the alternatives with priority shortage distribution methods, compared with other action alternatives." *Id.* at 3-194. As CRIT pointed out in earlier comments on the DEIS, the impact to CRIT is *largest* from both the "Enhanced Coordination Alternative" and the "Supply Driven (Pro Rata) Alternative," and the *smallest* impact from the "Basic Coordination Alternative."

The statement in Chapter 3 is in direct conflict with the updated Figures TA 16-2, TA 16-4, and TA 16-6, which now show by priority group the impacts to "Arizona, Tribal Agriculture, PPR" and support CRIT's determination of relative impacts among the alternatives. This contradiction between what the technical appendix's detailed analysis demonstrates, versus the

summary statement in Chapter 3, reinforces CRIT's continued objection to aggregation of impacts.

In addition to agriculture, CRIT is highly invested in recreation and tourism. The recreation economic analysis in Technical Appendix 16 continues to be silent on the impacts of the alternatives to lake recreation above Parker Dam and to river recreation below Parker Dam. The analysis also ignores the impacts of the alternatives on recreation and tourism elsewhere in the Lower Basin, including in the vicinity of the Reservation.

B. Other environmental impacts

The FEIS fails to address many of the other issues raised in CRIT's DEIS Comments, a few of which are outlined below:

1. The DEIS contained no mitigation measures. The FEIS acknowledges that NEPA requires consideration of "reasonable mitigation measures" (FEIS R-24) yet does not include a single proposed measure.
2. The FEIS lacks any alternative or mitigation to ensure compliance with environmental thresholds that protect the River and its native fish and wildlife and habitat.
3. The FEIS does not adequately address the need for widespread conservation to prevent future shortages.
4. Historically, CRIT members have been farmers. This is an important part of who we are. The FEIS fails address how potential shortages will impact to CRIT agriculture, businesses and members.
5. The FEIS acknowledges the need to identify landscape-scale cultural significance for areas like the Colorado River and Grand Canyon, and asserts that Reclamation is "developing a programmatic agreement in accordance with Section 106" of the National Historic Preservation Act. FEIS at R-47-48. This response simply confirms that planning and consultation to protect tribal cultural resources is incomplete, despite the pending ROD.
6. The FEIS lacks criteria for establishing when tribal resources are impacted and how they can be avoided.
7. The FEIS lacks a meaningful assessment of wetland and habitat loss and impacts from flow changes and mapping indicating how critical habitats will be impacted and defers adoption of the Lower Colorado River Multi-Species Conservation Plan and Biological Opinion until after the ROD is issued.

IV. Conclusion

Given the proposed 10 year period it will support, the gravity of how it may affect the interests of CRIT, and the large volume of new material in the FEIS, CRIT respectfully requests that Reclamation defer issuance of the ROD. The stakes are simply too high to limit the time for

review to a 72 hour weekend. The FEIS should be revised to address the concerns raised by CRIT, and a redlined version circulated for a 45-day public comment period. The Tribes also request that Reclamation engage in government-to-government consultation with CRIT on the FEIS and consult with them on a Section 106 programmatic agreement before issuing the ROD. In issuing the ROD, Reclamation should acknowledge that the FEIS provides no NEPA coverage for actions outside the Preferred Alternative, including any non-priority distribution of shortages in the absence of voluntary agreements by all impacted parties.

In submitting these comments, CRIT reserves its rights under all applicable laws, rules, and regulations. Nothing in this letter is intended to interpret or modify CRIT's rights under federal or administrative law and CRIT reserves the right to challenge and object to the FEIS and any Reclamation action based on its flawed analysis.

Respectfully submitted,

COLORADO RIVER INDIAN TRIBES



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Attorney General

cc: Tribal Council, Colorado River Indian Tribes
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