

THE COLORADO RIVER DROUGHT CONTINGENCY PLAN

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON WATER, OCEANS, AND
WILDLIFE

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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OVERSIGHT HEARING ON THE COLORADO RIVER DROUGHT CONTINGENCY PLAN

Thursday, March 28, 2019
U.S. House of Representatives
Subcommittee on Water, Oceans, and Wildlife
Committee on Natural Resources
Washington, DC

The Subcommittee met, pursuant to notice, at 10 a.m., in room 1324, Longworth House Office Building, Hon. Jared Huffman [Chairman of the Subcommittee] presiding.

Present: Representatives Huffman, Napolitano, Costa, Van Drew, Cox, Neguse, Levin, Cunningham, Grijalva (ex officio); McClintock, Lamborn, and Fulcher.

Also present: Representatives Stanton, Gallego, Lesko, Biggs, Schweikert, Tipton, Cheney, and Gosar.

Mr. HUFFMAN. Good morning, everyone. If you could take your seats, we are going to get started. This is the Subcommittee on Water, Oceans, and Wildlife, and we will now come to order.

The Subcommittee is meeting today to hear testimony on the Colorado River Drought Contingency Plan. Under Committee Rule 4(f), any oral opening statements at this hearing will be limited to the Chairman, the Ranking Member, the Vice Chair, and the Vice Ranking Member. This allows us to hear from our witnesses sooner and keeps Members on schedule.

Therefore, I ask unanimous consent that all Members' opening statements be made part of the hearing record if they are submitted to the Clerk by 5 p.m. today or the close of the hearing, whichever comes first. Hearing no objection, it is so ordered.

We also have a few Members from the Basin states who would like to join us on the dais for this hearing. I ask unanimous consent that the following Members be allowed to sit on the dais and participate in the hearing today: Representative Greg Stanton of Arizona, Representative Ruben Gallego of Arizona, Representative Debbie Lesko of Arizona, Representative Andy Biggs of Arizona, Representative David Schweikert of Arizona, Representative Scott Tipton of Colorado, and Representative Liz Cheney of Wyoming. Hearing no objection, that too is so ordered.

Mr. MCCLINTOCK. Mr. Chairman, I would also ask unanimous consent that Mr. Gosar of Arizona be permitted to sit with the Subcommittee and participate in the hearing.

Mr. HUFFMAN. Without objection.

And I would also ask unanimous consent that Congresswoman Napolitano, the former Chair of this Subcommittee, be allowed an opening statement.

Mrs. NAPOLITANO. Thank you.

Mr. HUFFMAN. Without objection, that will be done.

I will now recognize myself for 5 minutes.

STATEMENT OF THE HON. JARED HUFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUFFMAN. I want to thank everyone for joining us today for a very important hearing to examine the Colorado River Drought Contingency Plan.

The Colorado River Basin has been in drought for 19 years and counting. The Basin spans the states of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming. Representatives from all seven states are here with us today to tell this Committee about the severity of this drought and the action that has spurred them to come together.

Lake Mead, one of Colorado River's two main reservoirs, has spent the last few years hovering around the level that would trigger a "shortage declaration," which would automatically lead to water delivery cuts.

With 40 million residents and 5.5 million acres of irrigated agriculture, the Colorado River supports communities from Kremmling, Colorado down to Coachella, California, along with major cities, including Los Angeles, Phoenix, Las Vegas, and Denver. It is also a valuable resource to 29 tribes, and the river supports a \$25 billion outdoor recreation economy.

There is a lot riding on a river that, since the turn of the century, has seen a 19 percent decline in flows on average. It has less water than we once thought it did. And climate change is likely to only make things worse.

Just a month ago, this Committee heard expert testimony that hotter temperatures and lower precipitation will likely contribute to what scientists have termed "megadroughts" in the southwestern United States that will be happening throughout the rest of the century.

Right now, on the Colorado River, the reservoirs tell the story of a historic drought in action. Lake Mead, the river's largest reservoir, is at 41 percent of capacity. In fact, it has consistently been at half capacity or less for the past 6 years. And while there is positive news this year with improved snowpack levels, a single wet year isn't going to fix the problem in this basin.

Even though this year's snowpack is far above average, the flows into Lake Powell—the river's second largest reservoir—will likely be below average, reflecting the fact that there is a lot of catching up to do after the historically dry conditions we have seen over the past two decades.

The seven Colorado Basin states know full well the challenge they face, and they are here today to tell us how they hope to address it. Last Tuesday, the states sent us their Drought Contingency Plan, or DCP, which is a set of agreements that would help keep the river's two major reservoirs from dropping to dangerously low levels.

The states have asked Congress to approve enabling legislation to allow the DCP to move forward. The Department of the Interior has worked closely with the states over the several years that it has taken to get this plan to the hearing room today, and there are certain provisions that will require congressional approval for Interior to implement.

I am pleased to see that those involved in the DCP have managed to work across state lines, across party lines to find ways to protect the Colorado River. I understand that the states started initial conversations in 2013 about what they could do, the next steps they could take to conserve water and protect the river. Former Interior Secretary Sally Jewell highlighted the importance of additional planning for this ongoing drought in a December 2013 speech wherein she discussed the need for a Contingency Plan that included states and tribes across the Basin. And, today, we have the Bureau of Reclamation prepared to testify before the Committee about how they have continued to work with the states to help reach this point.

I should note that the U.S. Government is also making water conservation commitments in the DCP, as are tribes and other parties within the Basin, including the nation of Mexico, where the Colorado River ends in the Gulf of California.

I look forward to hearing more about how the plan that started with the states has grown to an intergovernmental and international partnership.

I also want to make sure we don't forget the impact of the Colorado River Basin drought on ecosystems and the environment. It is heartening to see that many in the environmental community have expressed support for the DCP.

I also want to applaud the efforts of the seven Basin states to work with our staff in recent days to ensure that the Members know we are respecting our Nation's environmental laws in the DCP enabling legislation. My understanding is that there is broad support from all seven Basin states for DCP enabling legislation that will soon be introduced by Chairman Grijalva. I appreciate the work of many people who helped get us to this point.

Finally, I should note that the ongoing drought has provided a common reason for the states to develop the DCP, but each state will face its own distinct set of challenges in implementation. In order to understand these challenges, and to recognize the robust partnership that is the foundation of the DCP, this Committee has asked representatives from all seven Basin states to testify today.

I look forward to hearing not just what the DCP is, but why it matters to everyone who depends on this river. With that, I will invite the Ranking Member to say a few remarks.

[The prepared statement of Mr. Huffman follows:]

PREPARED STATEMENT OF THE HON. JARED HUFFMAN, CHAIR, SUBCOMMITTEE ON
WATER, OCEANS, AND WILDLIFE

I want to thank everyone for joining us today for an important hearing examining the Colorado River Drought Contingency Plan.

The Colorado River Basin has been in drought for 19 years and counting. The Basin spans the states of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming. Representatives from all seven states are here with us today to tell this Committee about the severity of that drought, and the action it has spurred them to take.

Lake Mead, one of the Colorado River's two main reservoirs, has spent the last few years hovering around the level that would trigger a "shortage declaration," which would automatically lead to water delivery cuts.

With 40 million residents and 5.5 million acres of irrigated agriculture, the Colorado River supports communities from Kremmling, Colorado down to Coachella, California—along with major cities including Los Angeles, Phoenix, Las Vegas, and Denver. It is also a valuable resource to 29 tribes and the river support a \$25 billion outdoor recreation economy.

That's a lot riding on a river that, since the turn of the century, has seen a 19 percent decline in flows on average. And climate change is likely to only make things worse.

Just a month ago, this Committee heard expert testimony that hotter temperatures and lower precipitation will likely contribute to what scientists have termed "megadroughts" in the southwestern United States throughout the rest of this century.

Right now, on the Colorado River, the reservoirs tell the story of historic drought in action. Lake Mead, the river's largest reservoir, is currently at 41 percent of its capacity. In fact, it has consistently been at half-capacity—or less—for the past 6 years.

And while there is positive news this year with improved snowpack levels, a single wet year isn't going to fix the problem on the Colorado River. Even though this year's snowpack is far above average, the flows into Lake Powell—the river's second largest reservoir—will likely be *below* average, reflecting the fact that there is a lot of catching up to do after the historically dry conditions we've seen over the past two decades.

The seven Colorado River Basin states know full well the challenge they face on the Colorado River, and they are here today to tell us how they hope to address it. Last Tuesday, the states sent us their Drought Contingency Plan, or DCP, which is a set of agreements that would help keep the river's two major reservoirs from dropping to dangerously low levels.

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I'm pleased to see that those involved in the DCP have managed to work across state lines and across party lines to find ways to protect the Colorado River. I understand that the states started initial conversations in 2013 about what they could do to take the next step to conserve water and protect the river. Former Secretary of the Interior Sally Jewell highlighted the importance of additional planning for this ongoing drought in a December 2013 speech discussing the need for a contingency plan that included states and tribes across the Colorado River Basin.

And today, we have the Bureau of Reclamation prepared to testify before the Committee to tell us how they have continued to work with the states to help reach this point. I should note that Reclamation is also making water conservation commitments in the DCP, as is the nation of Mexico. I look forward to hearing more about how the plan that started with the states has grown to an intergovernmental and international partnership.

I also want to make sure we don't forget the impact of the Colorado River Basin drought on ecosystems and the environment. It's heartening to see that many in the environmental community have expressed support for the DCP.

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Finally, I should note that the ongoing drought has provided a common reason for the states to develop the DCP, but each state will face its own distinct set of challenges in implementation. In order to understand these challenges, and to recognize the robust partnership that is the foundation of the DCP, this Committee has asked representatives from all seven of the Basin states to testify today. I look forward to hearing not just what the DCP is, but why it matters to everyone who depends on this river.

With that, I want to invite the Ranking Member to say a few remarks.

STATEMENT OF THE HON. TOM McCLINTOCK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. McCLINTOCK. Thank you, Mr. Chairman.

The Subcommittee meets today to consider the Colorado Drought Contingency Plan agreed to by all of the states that draw from the Colorado River Basin. The dams on the Colorado have been the foundation to the prosperity of the Western states that rely on them to store water from wet years to assure abundance in dry ones. Forty million people and 5.5 million acres of productive farmland now depend on the water stored behind these dams and the 4,000 megawatts of hydroelectricity that their turbines generate.

Both natural and man-made developments have brought us to this juncture. The first is the continuing drought in the American Southwest. Precipitation in most of the continental United States has increased considerably since the turn of the last century, almost two-tenths of an inch per decade. The exception is the Southwest, which has seen a decrease in precipitation in the same period as weather patterns have shifted.

In addition, the original allocations of Colorado River water were set back in 1922, during a period of unusually high precipitation, thus building into the system an overestimate of available system-wide supply.

As Yogi Berra famously observed, it is tough to make predictions, especially about the future. The good news is that the Upper Colorado snowpack is currently 128 percent of normal for the year. February precipitation was well above the 30-year median, double in most places. And this month is likely to be the wettest March on record in the Colorado Basin. But one good year is no guarantee the 19-year drought is over, and prudence and experience both warn us of the need to be prepared.

Droughts have plagued this region from time immemorial. Over the last 1,200 years, there have been five periods with droughts equal or greater than this one. Indeed, in the mid-1100s, the region experienced a 25-year drought. History is desperately warning us to be prepared.

And one thing is absolutely certain about the future of the Colorado River Basin: Demand for water will continue to increase with population, while the supply of water will continue to fluctuate. That is the fine point of the matter, and it is an inescapable reality that we cannot ignore.

It is a remarkable development that seven of the most politically diverse states in the Nation could find agreement on something as controversial as reduced water allocations, but that miracle is before us today. I think we would be well advised to show a little humility and defer to the judgment of the states that directly depend on the water allocations set forth in this Contingency Plan.

During the Miracle at Philadelphia, Benjamin Franklin observed that the principal difference between the Catholic and Protestant religions was that the Catholics believed their church is infallible, while the Protestants believe that their church is never wrong. His advice to them that day, which I believe is entirely applicable here, is that we should each doubt a little of our own infallibility, and in this case, approve this compact.

I yield back.

[The prepared statement of Mr. McClintock follows:]

PREPARED STATEMENT OF THE HON. TOM MCCLINTOCK, RANKING MEMBER,
SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE

The Subcommittee meets today to consider the Colorado Drought Contingency Plan, agreed to by all of the states that draw from the Colorado River Basin.

The dams on the Colorado have been the foundation of the prosperity of the Western states that rely on them to store water from wet years to assure abundance in dry ones. Forty million people and 5.5 million acres of productive farmland now depend on the water stored behind these dams and the approximately 4,200 megawatts of hydroelectricity their turbines generate.

Both natural and man-made developments have brought us to this juncture.

The first is the continuing drought in the American Southwest. Precipitation in most of the continental United States has increased considerably since the turn of the last century—almost two-tenths of an inch per decade. The exception is the Southwest, which has seen a decrease in precipitation in the same period as weather patterns have shifted.

In addition, the original allocations of Colorado River water were set back in 1922, during a period of unusually high precipitation, thus building into the system an overestimate of available system-wide supply. In addition, the release of water to meet environmental laws in recent years has further drained our reservoirs, compounding the shortages imposed by drought.

As Yogi Berra famously observed, "Predictions are difficult, especially when they involve the future." The good news is that the Upper Colorado snowpack is currently 128 percent of normal for the year. February precipitation was well above the 30-year median, double in most places, and this month is likely to be the wettest March on record in the Colorado Basin. But that is no guarantee the drought is over, and prudence and experience both warn us of the need to be prepared. And one thing is absolutely certain about the future of the Colorado River Basin: demand for water will continue to increase with population, while the supply of water will continue to fluctuate. That is the fine point of the matter and an inescapable reality we cannot ignore.

It is a remarkable development that seven of the most politically diverse states in the Nation could find agreement on something as controversial as decreased water allocations, but that miracle is before us today. I think we would be well-advised to show a little humility and defer to the judgment of the states that directly depend on the water allocations set forth in this contingency plan.

During the Miracle at Philadelphia, Benjamin Franklin observed that the principal difference between the Catholic and Protestant religions was that the Catholics believed their church is infallible while the Protestants believed that their church is never wrong. His advice to them that day—which I believe is entirely applicable here—is that we should each doubt a little of our own infallibility and in this case, approve this compact.

Mr. HUFFMAN. Thank you.

The Chair now recognizes the gentlelady from Southern California, who has been working on Colorado River issues for a long time, Mrs. Napolitano.

STATEMENT OF THE HON. GRACE F. NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. NAPOLITANO. Thank you very much, Mr. Chair. Thank you for holding the hearing, and thank you to the witnesses, but thank you for allowing me to make the statement.

The Colorado River Drought Contingency Plan is an achievement of collaboration, compromise, and foresight. It reflects a realistic appraisal by the water managers in the Colorado River system of increasing waters scarcity and the realization that our water supply is a finite source.

Collectively, the Basin states developed a practical and workable approach for dealing with the challenges managing the Colorado River. The fact that seven states and the Department of the Interior can come together, as was stated before, over 2 years and agree on a difficult and meaningful path forward that achieves the greater overall sustainability is something to be celebrated.

Southern California and the people of the West will benefit from improved reliability of the water supply the DCP will provide. Forty million people rely on this amazing resource, and each one of them is better off with the plan. We must pass the legislation to authorize the Secretary of the Interior to implement what the seven Basin states have agreed to and need.

The testimony that we will be hearing today reflects a very bipartisan effort supported by the seven states, multiple water districts, Native American tribes, and a broad coalition of environmental organizations. Enactment of the authorizing legislation will initiate all states' efforts to manage the water in the Colorado River system, along with the Republic of Mexico, which has willingly participated in and actively worked with the United States to address drought conditions.

We are blessed that we have a good snowpack, as was mentioned before, in the Upper Colorado River watershed this year. This provides us the opportunity to take advantage of the extra water if the DCP legislation is enacted so that implementation can begin immediately.

I must say that Southern California is still in a drought condition. We still need more rain. It will take a couple more water years than we have had this year to be able to come up to a fairly decent topping of the rivers and the dams.

We must support collaborative approaches to manage our most precious resource: water. The DCP will provide increased dependability to water users in Southern California and provide initiative to address Salton Sea issues. I look forward to continue to work with Congressman Ruiz, Commissioner Burman, this Committee, and all stakeholders on providing a long-term solution to the Salton Sea, and I request that we continue this conversation later on the Salton Sea, Madam Secretary—Commissioner.

I thank you very much for the ability to do this. I yield back.

Mr. HUFFMAN. Thank you.

We will now hear witness testimony. Let me remind our first witness that under our Committee Rules, witnesses must limit their oral statement to 5 minutes, but the entire statement will appear in the Committee hearing record. When you begin—I don't need to tell you this, Commissioner Burman—there will be a light on the witness table. It will be green. As you get to the 1-minute point, it turns yellow, and you know what the red light means.

Now, I will introduce the witness for our first panel. It is Commissioner Brenda Burman, the Commissioner of the Bureau of Reclamation. We welcome you to the Committee, Commissioner Burman. You are recognized for 5 minutes.

**STATEMENT OF BRENDA BURMAN, COMMISSIONER, U.S.
BUREAU OF RECLAMATION, WASHINGTON, DC**

Ms. BURMAN. Thank you.

Good morning, Chairman Huffman, Ranking Member McClintock, members of the Subcommittee. I am Brenda Burman, Commissioner of the Bureau of Reclamation. Thank you for the opportunity to testify today on the efforts on the Colorado River Basin on Drought Contingency Plans. We appreciate that the Subcommittee called this oversight hearing as promptly as possible.

Just to paint a picture, and as the handouts you have been provided show, the Colorado River irrigates nearly 5.5 million acres of farmland. It serves approximately 40 million people in major metropolitan areas across nine states in the United States and Mexico, including Denver, Salt Lake City, Las Vegas, Phoenix, Tucson, Los Angeles, San Diego, Mexicali, and Tijuana. It is the most vital resource to the environment and the economy of the Southwest.

Understanding its importance, the Colorado River Basin is in danger. We are currently experiencing its worst drought in recorded history. The period from 2000 through 2018 is the driest 19-year period in over 100 years. And this period represents one of the driest periods in the 1,200-year paleo record.

These dry periods have caused combined storage of Lake Powell and Lake Mead to drop precipitously. The combined storage in these two massive reservoirs stands at approximately 40 percent of capacity. Conservation and storage programs developed in the last few years have added approximately 25 feet in elevation to Lake Mead, and it is these conservation efforts that have helped the Lower Colorado River Basin avoid shortage in the past few years. These efforts will also be instrumental in helping to avert a shortage condition through 2019.

While shortages are likely part of the Lower Basin's future, none of the Lower Basin states, or Mexico for that matter, can afford to allow a true crisis of water supply to develop. Simply put, if Lake Mead were to decline to elevations below 1,020 feet mean sea level, the remaining live storage would be less than 6 million acre-feet. To put that in context, in a normal year, we deliver 9 million acre-feet, and this would leave us without even a full year's supply. That is not the future we want this basin to experience.

Reclamation data from January indicates that critical elevations could be reached as early as 2021. The risk of our primary reservoirs, Lake Powell and Lake Mead, reaching critically low elevations has increased nearly fourfold over the past decade, and could continue to increase without action.

The seven Colorado River Basin states deserve great credit here. Over the past 25 years, we have seen that by working together, we are able to accomplish far more than any one party, any one state, or even any one country could do on its own. Together, the Upper and Lower Basins, all seven states, are committed to taking actions to reduce risk on the system, and we applaud their efforts and their successful negotiation of a set of agreements that will reduce risk on the Colorado for all that rely on the river.

Whether you rely on the Colorado River for your city's water supply, irrigate with water from the Colorado, use electricity

generated by the Colorado, or enjoy the natural wonders of the Colorado River, everyone benefits when we work together to protect this limited, declining, and irreplaceable resource.

Thank you again for calling this hearing. I look forward to your questions and to the testimony of the Basin state leaders that are here with us today.

[The prepared statement of Ms. Burman follows:]

PREPARED STATEMENT OF BRENDA BURMAN, COMMISSIONER, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR

Good morning, Chairman Huffman, Ranking Member McClintock and members of the Subcommittee, I am Brenda Burman, Commissioner of the Bureau of Reclamation (Reclamation).

Thank you for the opportunity to testify today on the efforts in the Colorado River Basin (Basin) on the drought contingency plans (DCPs). We appreciate that the Subcommittee called this oversight hearing as promptly as possible given the recent drought agreements forged by the Colorado River Basin states, who also are testifying today.

We are here for a very serious and important purpose: to discuss critically needed efforts to ensure that, *by working together across the Colorado River Basin*, we can protect all who rely on the Colorado River.

The Basin states have now completed their drought plans and have determined that Federal legislation will be necessary to promptly implement their plans. As you will hear from the states, the goal of the DCP is straightforward. The goal is to reduce the risk that Colorado River reservoirs, primarily the massive reservoirs of Lake Powell and Mead, decline to critically low elevations. For example, and for context, if Lake Mead were to decline to elevations below 1,020 feet mean sea level, at that point the remaining live storage in Lake Mead would be less than 6 million acre-feet. In a normal year, the Lower Basin states use 7.5 million acre-feet and deliveries to Mexico total 1.5 million acre-feet.

BACKGROUND

The Colorado River irrigates nearly 5.5 million acres of farmland and serves approximately 40 million people in major metropolitan areas across nine states in the United States and Mexico including Denver, Salt Lake City, Las Vegas, Phoenix, Tucson, Los Angeles, San Diego, Mexicali and Tijuana, and a number of tribal reservations.

The Colorado River Basin (Basin) is currently experiencing its worst drought in recorded history. The period from 2000 through 2018 is the driest 19-year period in over 100 years and one of the driest periods in the 1,200-year paleo-record.

Over a decade ago, responding to 5 years of intense drought, the Department of the Interior (Interior) worked with the Basin states, tribes and other stakeholders in the Basin to adopt operating rules for Glen Canyon and Hoover Dams. These operating rules are known as the 2007 Interim Guidelines and were adopted to better coordinate the operations of Lakes Powell and Lake Mead, encourage water conservation, and to provide objective rules for shortages and reductions of water use in the Lower Basin by Arizona and Nevada.

Since 2007, the drought has persisted and more action, such as combining provisions requiring reduced use of water with new incentives to conserve water, is needed to protect these reservoirs that are essential to our environment and economy.

Following the extremely dry years of 2012 and 2013, when the Colorado River experienced the lowest 2-year runoff period in modern recordkeeping, the seven Colorado River Basin states began pursuing drought contingency plans. In 2014, Reclamation and the Basin states initiated a series of pilot projects to encourage additional, compensated, water conservation. Most recently, the adoption in September 2017 of a new, long-term cooperative agreement with Mexico known as Minute 323 included additional important water conservation and savings actions by Mexico. Some of these water savings actions would only be triggered if the DCPs are completed in the United States, which intensified efforts to complete the DCPs in the Upper and Lower Basins.

In December 2017, during my first public remarks as Commissioner of Reclamation, based on the ongoing historic drought, I called on all seven Basin states and key water districts in the Lower Basin to complete their work on finalizing the drought contingency plans by the end of 2018. During development of the

DCPs, the states requested, and received, technical assistance from Interior on such matters as the projected risk facing the Basin as a result of long-term drought. Interior is proud to have worked collaboratively with the states, tribes, non-governmental organizations and other Basin stakeholders on the DCPs. We look forward to continuing our work with the states, tribes, NGOs, key water districts, and Mexico on implementation of the DCPs once they become effective.

COLORADO RIVER BASIN HYDROLOGY

2018, the fifth driest year on record, caused the combined storage of Lake Powell and Lake Mead to drop to approximately 40 percent of capacity, the lowest level since the mid-1960s when Lake Powell was initially filling. Conservation and storage programs developed in the last few years have added approximately 25 feet in elevation to Lake Mead, helping to avert a shortage condition for at least the past 4 years (2016 through 2019). However, Reclamation analysis conducted in January 2019 indicates the risk of water levels declining to critical elevations at Lakes Powell and Mead, has increased nearly fourfold over the past decade. Critical elevations could be reached as early as 2021.

Hydrology in the Upper Colorado River Basin, where 92 percent of the total inflow in the Basin originates, appears to be experiencing a modest reprieve in water year 2019. As of March 19, 2019, snowpack in the Upper Basin is 138 percent of median, one of the highest snowpack totals for this time of year since the drought started, and the forecasted seasonal runoff into Lake Powell is 133 percent of average. We are reminded that while hydrologic conditions in the Basin have improved this year, 1 year of above average inflow will not end the ongoing, extended drought and does not substantially reduce the risks facing the Basin. In fact, after a robust water year in 2011, the Basin experienced exceptionally low snowpack and flows in 2012 and 2013. Due to hydrologic uncertainty, there is still a possibility that Lakes Powell and Mead decline to critical levels over the next few years.

DROUGHT CONTINGENCY PLANS

Upper Colorado River Basin Drought Contingency Plan

The Upper Basin DCP is designed to reduce the risk of reaching critical elevations at Lake Powell and help assure continued compliance with the 1922 Colorado River Compact and authorize storage of conserved water in the Upper Basin that could help establish the foundation for a Demand Management Program that may be developed in the future.

Drought Response Operations Agreement

The Drought Response Operations Agreement (DROA) in the Upper Colorado River Basin creates a process to temporarily move water stored in the Colorado River Storage Project (CRSP) Initial Units above Lake Powell—Aspinall, Flaming Gorge, and Navajo—to Lake Powell if it is projected to approach critical elevations. The purpose of temporarily moving water to Lake Powell is to avoid critical elevations (below elevation 3525') that threaten compliance with the Colorado River Compact, and hydropower production. DROA creates a process to respond to critical elevations at Lake Powell: if advance forecasting shows that Lake Powell's elevation is approaching a critical elevation, the Secretary will convene representatives of the Upper Basin states to monitor the forecasts, assess the water needs to avoid reaching critical elevations, and assess the water that may be available from the upstream Initial Units. If forecasted hydrology continues to show levels below a critical elevation, this group will recommend a plan to the Secretary regarding what water releases can be made from the Initial Units to avoid critical elevations, and the Secretary will approve or reject that plan.

Demand Management Storage Agreement

The Demand Management Storage Agreement creates support for each of the four Upper Basin states, working through the Upper Colorado River Commission, to have access to storage capacity in the CRSP Initial Units where they can store conserved water, should the states decide to create Demand Management Storage programs in the Upper Basin. Water conserved under such programs, if developed, would be set aside for meeting the Upper Basin's obligations contained in the Colorado River Compact of 1922 and the Upper Colorado River Compact of 1948.

The Demand Management Storage Agreement contains important safeguards. Before water can be set aside for demand management storage, each respective Upper Basin state must work with its water users to assess conservation opportunities available at facilities within the state and approve its own intrastate voluntary

demand management program to conserve water. The Demand Management Storage Agreement does not affect what particular water conservation opportunities may be available in a particular state. Each state must then secure interstate approval for its program throughout the Upper Basin. The states have indicated to Reclamation that available storage for conserved water in the CRSP Initial Units is critical to pursuing discussions to develop these conservation programs because there is no incentive to begin complex discussions on water conservation if there is no place to store conserved water. We understand that these discussions are conceptual at this time and specific plans have yet to be negotiated or approved and are likely to take some time to develop.

The states have not identified operational details for a potential Demand Management program and therefore have not defined how water savings will be determined, how water will be conveyed to CRSP Initial Units, or how much water the states may be able to save. Of the 30,000,000 acre-feet of storage capacity in the Initial Units, the Demand Management Storage Agreement authorizes storage in the Upper Basin up to a maximum of 500,000 acre-feet. Once these details become available, Interior will work with the Upper Basin states, in consultation with the Lower Basin states, to review the technical elements of the anticipated Demand Management Storage Program.

Lower Colorado River Basin Drought Contingency Plan

The Lower Basin DCP is designed to reduce the risks of Lake Mead declining to critical elevations by requiring Arizona, California, and Nevada to contribute additional water to Lake Mead storage at predetermined elevations and creating additional flexibility to incentivize additional voluntary conservation of water to be stored in the lake. These new contributions of water by each Lower Basin state are an overlay and are in addition to the shortage volumes outlined in the 2007 Interim Guidelines. Like the shortage elements of the 2007 Guidelines, new contributions would increase as Lake Mead's elevation declines, providing protection against Lake Mead declining to critically low elevations. The DCP also provides for the potential recovery of contributions later, should Lake Mead conditions improve significantly.

The Lower Basin DCP creates important incentives to encourage water conservation and storage in Lake Mead. New rules allowing flexibility to withdraw previously conserved water from Lake Mead below elevation 1,075 feet will remove disincentives to conserve water when Lake Mead is near those elevations. The Lower Basin DCP also removes incentives to withdraw previously stored water as Lake Mead approaches elevation 1075'.

The DCP increases the maximum allowable storage of Intentionally Created Surplus (ICS) for each Lower Basin state to help incentivize creation and long-term storage of ICS. This incentive aims to further bolster Lake Mead's elevation.

In the Lower Basin, the DCP agreements will be accompanied by intra-state agreements in Arizona and California for each Lower Basin state, and related interstate agreements among Arizona, California and Nevada, required to implement the DCP.

Implementation of a Lower Basin DCP will automatically trigger Mexico's Water Scarcity Contingency Plan as outlined in Section IV of Minute 323 to the 1944 U.S.-Mexico Water Treaty. This agreement, finalized in 2017, provides that Mexico will share proportionally in making additional contributions to Lake Mead at predetermined elevations. Following execution of the Lower Basin DCP in the United States, the principal engineers from the United States and Mexican Sections of the International Boundary and Water Commission will prepare an engineer's report implementing Mexico's Water Scarcity Contingency Plan.

Collectively, these elements of drought response actions in the Upper Basin, Lower Basin and Mexico would cut the risk of Colorado River reservoirs reaching critically low elevations by approximately 50 percent. These are critically important actions and Interior believes these efforts need to be implemented this year to provide the maximum benefits in terms of water conservation opportunities and associated risk reduction.

ENVIRONMENTAL CONSIDERATIONS

Reclamation has worked closely with the Basin states as the DCPs were developed, and, as noted above, provided technical assistance to the states throughout their discussions. Through this engagement, Reclamation has been able to inform the states of relevant existing environmental programs and environmental compliance in the Upper and Lower Basins so that the elements of the DCPs could be carefully developed with these important considerations in mind.

Now that the DCPs have been finalized and transmitted for congressional consideration and approval on March 19, 2019, Reclamation has been carefully reviewing the final provisions in the context of existing environmental analyses that guide operation of Colorado River reservoirs.

AVOIDANCE OF CRISIS

The DCP is a program that implements simultaneous and coordinated actions among the seven Colorado River Basin states and Mexico through the activation of their Binational Water Scarcity Plan in a critically needed effort to reduce water use, or conserve water, to protect the Colorado River system from crisis.

Implementation of the DCPs would occur while Basin state representatives, along with tribes, NGOs, and the public, begin efforts to develop agreements on longer-term operations that would be adopted beyond 2026.

Committing to this level of conservation, more than double what is currently required, results in a more reliable future for all resources that depend on the Colorado River—municipal, agricultural, hydropower production, recreation, and the environment.

CONCLUSION

In summary, the Upper and Lower Basin DCPs, coupled with Mexico's Water Scarcity Contingency Plan under Minute 323, are designed to reduce the risk of Lakes Powell and Mead declining to critical levels.

With these plans in place, analysis indicates that the risk of declining to critical levels decreases to what they were when the 2007 Interim Guidelines were implemented. This would help bridge the gap as Interior and Reclamation work with stakeholders to develop a new set of operating guidelines prior to the expiration of the 2007 Interim Guidelines in 2026.

In closing, the Colorado River Basin is a critical resource to the seven Basin states. Recognizing that, they have worked and will continue to work hard on this effort. Thank you for the opportunity to appear before the Subcommittee today and I would be happy to answer any questions you may have.

QUESTION SUBMITTED FOR THE RECORD BY REPRESENTATIVE NAPOLITANO TO BRENDA BURMAN, COMMISSIONER, U.S. BUREAU OF RECLAMATION

Question 1. Director Burman, will the Bureau commit to working with Rep. Ruiz, me and this Committee to mitigate and improve the environmental degradation of the Salton Sea?

Question 1a. What are the Bureau's plans to address this issue?

Answer. Yes, Reclamation commits to working with the Committee on Salton Sea issues. As you are aware, in 2016, the Department of the Interior signed a Memorandum of Understanding (MOU) with the California Natural Resources Agency for the purposes of coordinating efforts at the Sea, including a commitment by the Department to pursue \$30 million in funding to help support operation, maintenance, and monitoring costs of state-initiated efforts. To date, Interior has met its funding commitments under the MOU. Recognizing the state of California's role as lead on Salton Sea management, Reclamation and the Interior look forward to continuing to coordinate on Salton Sea issues with the state, as well as tribal and local entities.

Mr. HUFFMAN. Thank you, Commissioner Burman.

I will now recognize myself for 5 minutes.

In your testimony, you talk about the importance of the DCP in terms of minimizing risk and maximizing opportunity for water conservation. The states have also expressed a great sense of urgency in seeking congressional authorization to move this forward very quickly. Can you speak to why the DCP is needed on such an urgent basis?

Ms. BURMAN. We look out and we see the risk of Lake Mead and Lake Powell falling to critically low elevations in the very near

future. There has been a lot of conservation and partnership on the river, and that is what has kept us out of shortage to date. But the Drought Contingency Plans aren't designed to keep us out of shortage; they are designed to keep us out of crisis. And that is what we see on the horizon.

Actions today will produce better results tomorrow. There is too much risk on the system to do nothing. As you mentioned, this is a wet year, but one wet year is not going to fix a 19-year problem. The sooner we act, the better. The sooner we act, the more likely we are to prevent crisis.

Mr. HUFFMAN. So, the actions that you reference include a commitment from Reclamation itself to come up with 100,000 acre-feet of water savings per year. Could you speak to the kind of opportunities Reclamation sees for achieving those savings?

Ms. BURMAN. We have a really good story here. And I will just mention, back in the early 2000s when I started working on the Colorado River, the water that we lost in the system, the water that was lost out of Hoover Dam and never used, was over 100,000 acre-feet. Some years it was over 150,000 acre-feet. Since that time, Reclamation, working with partners, has been able to tighten the system, increase efficiencies, use infrastructure to save water, and last year, that loss on the system was only 7,000 acre-feet. So, we have overwhelmingly tightened the system.

We plan to use all of our authorities, work with all of our partners on the river to move forward to find even more water supplies within the United States' commitment.

Mr. HUFFMAN. Under the DCP, if Lake Powell nears a target elevation of 3,525 feet, Upper Basin states and the Secretary would convene to create a response plan to make sure that the reservoir stays above that level. Can you explain why that target elevation was chosen? What would happen if Lake Powell dropped below that level?

Ms. BURMAN. The Basin states will be testifying right after me, and I think they will speak far more eloquently about why they—

Mr. HUFFMAN. You are eloquent.

Ms. BURMAN [continuing]. Have chosen that level and why it is important, and we have worked with them along the way. The idea is to protect power pool and Lake Powell with the idea that protecting power pool will protect the resources of the Upper Basin and also prevent a crisis on Lake Powell, a crisis where the Upper Basin was not able to make its delivery south.

Mr. HUFFMAN. OK. We will ask them in more detail about those technical questions.

Let me ask this. This DCP is to address the crisis immediately before us, but our work is not done on the Colorado River Basin. As you know, negotiations for future water use and the next Colorado River guidelines will begin next year. I wonder if you could share some thoughts on what you think needs to be done for the long term to prepare for droughts of the future, which we know will become more frequent and severe because of climate change.

Ms. BURMAN. Back in 2007, when the Department put in place the shortage guidelines and the coordinated operations of Lake Mead and Lake Powell, the idea was we would learn as we went.

We would operate the system, we would understand the system better. We find ourselves in 2019, and we have learned a lot.

The Drought Contingency Plans are designed to be a 7-year insurance policy. And that 7-year insurance policy buys down the risk of us hitting crisis by 2026. We are prepared to start negotiations in 2020 for what happens after 2026. The Drought Contingency Plan is so important because what it is going to do is give us that space for all the partners to come together, for the states, the Federal Government, tribes, non-governmental organizations, local entities, water districts, farmers, and work together on what is the next steps.

Mr. HUFFMAN. In the time we have remaining, I wonder if you could explain the water management differences in the Upper versus the Lower Basin and how that is reflected in the DCP.

Ms. BURMAN. That could take hours and hours, Mr. Chairman.

Mr. HUFFMAN. You have 37 seconds.

Ms. BURMAN. Very good. In the Lower Basin, Lake Mead sits at the top of the system. So, while Southern Nevada Water Authority, who will be testifying today, takes their water from Lake Mead itself, both California and Arizona take their water below Hoover Dam. They have a very large savings account sitting above their system. It is a good back-up system. That storage has allowed them the certainty to move forward, and it is the backbone of their economies.

In the Upper Basin, there are several storage projects. The largest storage project, Lake Powell, sits at the bottom of the system. It is a much different calculus about how saving programs work, how you will move, but that reservoir, Lake Powell, is absolutely important for how water flows south, meeting compact commitments, and how the Basin states of the Upper Basin come together to make sure that they are buying down their risk, that they know that they won't hit crisis.

Mr. HUFFMAN. I appreciate that. I am sorry we didn't have more time to do justice to the technical differences.

The Chair now recognizes Ranking Member McClintock for 5 minutes, and then I think we are going to have to break for votes, and we will come right back. I apologize in advance for the interruption.

Mr. MCCLINTOCK. Thank you.

Commissioner Burman, we have heard objection from some environmental groups that the state-proposed legislation purposely averts Federal environmental laws. Do you think that the legislative language proposed by the seven Basin states attempts to circumvent environmental laws?

Ms. BURMAN. Ranking Member McClintock, no one ever likes this answer, but the Administration is unable to comment on legislation that has not been introduced. But I know that the states who will be testifying next, that is their proposed language, and I expect they will be happy to explain all of what they have proposed.

Mr. MCCLINTOCK. In fact, we have heard suggestions that in some way, the DCP ought to be subject to the California Environmental Quality Act. Should this plan or any of the Basin states' proposals be subject to CEQA?

Ms. BURMAN. Again, I don't want to comment on what legislative—

Mr. MCCLINTOCK. Well, let me ask you this. What effect would it have on the plan if they were required to conform to CEQA?

Ms. BURMAN. It is hard to picture that the Federal Government would have to comply with CEQA. I think it would be a major change. It would be difficult to see how the Federal Government would be imposed to follow state law.

Mr. MCCLINTOCK. Tell me, what changes do you anticipate being made to Federal law in order to accommodate the DCP?

Ms. BURMAN. The Drought Contingency Plans were designed by the seven states, working with the Federal Government, to work within existing law. There is a very complex Law of the River that governs the Colorado River. That includes a Supreme Court decree, it includes several statutes, it includes agreements and compacts, both international and between states. And in looking forward, the states have come together and they have put together a plan that they believe creates incentives that can move forward, but that the Law of the River for these 7 years will work within—let me rephrase—they believe that the changes they have put forth will allow the Law of the River to work for the DCPs for the next 7 years.

Mr. MCCLINTOCK. OK. Are we approaching the maximum ability to utilize water in the Colorado River Basin? One thing that has always struck me, everybody thinks the Colorado River is the great river in the West. The Sacramento River is actually bigger. The difference is we store about 70 million acre-feet in total on the Colorado system, we only store about 10 million acre-feet on the Sacramento. We lose most of the rest of that to the ocean every year.

Are we reaching the upper limits of our ability to retain water in the Colorado Basin, assuming we go back to a normal weather pattern?

Ms. BURMAN. I think you have just said it. The Colorado River has an overwhelming storage capacity. And that storage capacity is what has allowed us to survive 19 years of drought. So, the storage capacity on the Colorado River system—

Mr. MCCLINTOCK. Well, let me ask you this. What would the Southwest look like today without our system of dams in the Colorado Basin?

Ms. BURMAN. It would be very difficult to see how the Southwest could thrive or survive without the storage that we have seen on this system.

Mr. MCCLINTOCK. OK. Thank you very much.

Mr. HUFFMAN. The votes have been called, so the Committee will now recess, subject to the call of the Chair. We should be back shortly, so thanks.

[Recess.]

Mr. HUFFMAN. Thanks for your patience, everyone, we are back. And I believe the gentleman from Arizona, Mr. Stanton, was next in line. The former mayor of Phoenix knows something about the Colorado River and this settlement agreement.

Mr. Stanton, you are recognized for 5 minutes.

Mr. STANTON. Thank you very much, Mr. Chair. Sorry about that quick vote that we had to take, and everyone's patience in that regard. Mr. Chairman, I want to say first, thank you for allowing me to participate in today's hearing about the future of the Colorado River, a critically important issue to us from Arizona.

And I want to extend a special thank you and welcome to Tom Buschatzke, the Director of Arizona's Department of Water Resources. He will be testifying in a future panel.

The importance of the Colorado River to the West and to my state cannot be overstated. Forty million people in seven Western states get their water from the Colorado. And nearly 40 percent of the water used in Phoenix comes from the Colorado. So, we must absolutely protect it, and we must do so without delay.

Make no mistake, one of the primary reasons we are here today is climate change. Climate change has ravaged the American Southwest, where we are in our 19th year of drought. The federally funded National Climate Assessment found that rising global temperatures have changed the Southwest water cycle and decreased snowpack. Less snowpack means less water to the Colorado River. And as a result, the once mighty river is dangerously overallocated and on the verge of collapse.

To prepare for the impact of the changing climate and a drier future, water users in the seven Colorado River Basin states have worked to reach important agreements to voluntarily conserve water and better manage the river to mitigate the risk of water levels falling to perilous levels in Lake Mead and Powell. It has not been an easy process. It has taken several years, and I want to recognize the difficult and painstaking work it has taken each of the parties to reach these important agreements.

During my time as mayor, the city of Phoenix worked very closely with Director Buschatzke and his team at ADWR, so I know exactly how much time and effort went into making these agreements happen.

What I think is important to recognize is that the agreements and the legislation is a compromise. Everybody is going to feel some pain. If we can get this through Congress, Arizona will enter into shortages on the Colorado sooner and in larger amounts, but it is essential to conserving and protecting against overallocation of the Colorado River system. This is our new reality in the desert Southwest. And we must prepare for it today and in the future.

Mr. Chairman, I ask unanimous consent to enter into the record two letters, one from the newly elected mayor of the city of Phoenix, Kate Gallego, on the importance of passing the DCP; and one from business leaders from across Arizona, Utah, and Colorado, all who are in support of quick action on the DCP.

Mr. HUFFMAN. Without objection.

Mr. STANTON. Thank you so much.

[The information follows:]

Submissions for the Record by Rep. StantonCITY OF PHOENIX
OFFICE OF THE MAYOR

March 26, 2019

Re: Colorado River Drought Contingency Plans (DCP)

Dear Members of Congress:

As Mayor of the City of Phoenix (Phoenix), I am writing to you today in support of the Colorado River Drought Contingency Plans (DCP), as proposed by representatives of the seven Colorado River Basin States in their letter to Congress dated March 19, 2019. As you know, the Colorado River provides water to over 40 million people in the West, and comprises 40% of the water supply for Phoenix. Phoenix is the nation's largest desert city; reliable and sustainable water supplies are of paramount importance to our community.

The Colorado River is over-allocated. After nearly 20 years of prolonged drought and climate change that has brought the Colorado River reservoirs to historic low levels, action to prevent catastrophic failure on the Colorado River is necessary. For the past several years, parties representing the 7 Basin States (Wyoming, Colorado, New Mexico, Utah, Arizona, Nevada and California) have carefully crafted drought contingency plans which represent a significant step forward in collaboration to conserve and manage the water resource jewel that is the Colorado River. It is essential that we attain Congressional support for the proposed legislation so DCP can be signed and implemented by the states immediately.

Phoenix has been an integral part of the DCP discussions within Arizona, and like stakeholders throughout the Colorado River Basin, Phoenix understands that the time is now for implementation of this important collaboration among all Colorado River stakeholders. As an urban water provider to over 1.6 million customers, Phoenix needs the certainty and security the DCP brings to protect the water supplies that are the lifeblood of the Phoenix economy. Phoenix also appreciates the value of the very difficult and complex collaboration DCP represents among water users in the Basin States, including municipalities, agricultural interests, tribal communities, federal interests and the Republic of Mexico. In order to capitalize on that collaboration, it is essential that Congress pass DCP without delay.

The risks posed to the Colorado River Basin caused by over-allocation, prolonged drought and climate change are significant and immediate. While the 2018–19 winter was a productive one in the Colorado River watershed, one wet winter cannot reverse the dramatic declines we have witnessed since 2000—only an effective and flexible conservation management plan such as the DCP can improve the sustainability of the Southwest. Importantly, the voluntary conservation measures described in the DCP can be implemented without impacting the water rights of other Colorado River water users or environmental protections for the Colorado River Basin.

After years of careful review and negotiations among stakeholders throughout the Colorado River Basin and the United States Department of Interior, and with reservoir levels at historic lows, it is critical that Congress approve the DCP without delay so we can begin to implement it without further jeopardizing the water supplies for Phoenix and the Southwest.

Thank you for your consideration and I appreciate your support for this important piece of legislation.

Sincerely,

KATE GALLEGO,
Mayor.

March 26, 2019

Hon. JARED HUFFMAN, *Chair*,
 Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
House Committee on Natural Resources

Hon. MARTHA MCSALLY, *Chair*,
 Hon. CATHERINE CORTEZ MASTO, *Ranking Member*,
Subcommittee on Water & Power,
Senate Committee on Energy & Natural Resources

Dear Chairs Huffman and McSally, Ranking Members McClintock and Cortez Masto:

As business leads with major operations in the Southwest and Colorado River basin, we write to support the seven Colorado River basin states' request that Congress move forward with federal legislation supporting implementation of approved Drought Contingency Plans (DCPs). The states' collective agreement to move forward on these plans comes after years of negotiations, with states pledging proactive conservation measures to safeguard Colorado River water supplies and protect water levels in Lake Mead.

We request that Congress now work to pass companion federal legislation authorizing implementation of the DCPs through the Secretary of the Interior.

Across economic sectors, business operators increasingly recognize the challenges drought has brought to the Southwest and all the Colorado River basin states. Uncertainty around water availability and pricing, combined with pressures from population growth, threaten business operations, economic prosperity, business innovation, investment, and financing.

Businesses need certainty to hire, invest in new facilities and equipment, and continue growing our economy. Right now, companies across the Southwest are facing real risk of water shortage. All seven Colorado basin states have reached agreement through coordinated DCPs, providing a critical step in addressing the region's complex water supply issues. DCP also provides interim security on reservoir operations and water management while longer-term solutions are under negotiation, ensuring that the seven basin states maintain a coordinated dedication to water conservation during negotiations and planning for a drier future.

As a next step, decisive federal passage of DCP implementation legislation is essential to provide a secure water future for agriculture, industry, cities and communities.

Our companies and business organizations have already stepped up to urge state leaders to prioritize drought planning, and many in our group are already taking voluntary steps to reduce our water footprints, conserve water, and contribute to a secure water future.

We look forward to working with you on implementation of federal legislation on the DCPs.

Sincerely,

Glenn Hamer,
 President and CEO
AZ Chamber of Commerce & Ind.
 Phoenix, AZ

Derek Miller,
 President and CEO
Salt Lake Chamber
 Salt Lake City, UT

John Wolfe,
 Sr. VP & Southwest Region Mgr.
Cox Communications
 Arizona and Las Vegas

Cheryl L. Lombard, Esq.,
 President and CEO
Valley Partnership
 Phoenix, AZ

Nicholas J. Colglazier,
 Director
Colorado Competitive Council
 Denver, CO

Suzanne Kinney,
 President and CEO
AZ Chapter of NAIOP
 Phoenix, AZ

Allison Gilbreath,
Executive Director
Arizona Manufacturers Council
Phoenix, AZ

Jennifer Martin,
Executive Director
**Sierra Vista Chamber of
Commerce**
Sierra Vista, AZ

Amber Smith,
President and CEO
Tucson Metro Chamber
Tucson, AZ

Todd Sanders,
President and CEO
**Gr. Phoenix Chamber of
Commerce**
Phoenix, AZ

Olivia Ainza-Kramer,
President and CEO
**Nogales-Santa Cruz County
Chamber of Commerce**
Nogales, AZ

Terri Kimble,
President and CEO
Chandler Chamber of Commerce
Chandler, AZ

Robert Lotts,
Director
Palo Verde Water Resources
Tonopah, AZ

Julie Pastrick,
IOM President/CEO
**Greater Flagstaff Chamber of
Commerce**
Flagstaff, AZ

Sandy Fabritz,
Director of Water Resources
Freeport McMoRan
Phoenix, AZ

John Courtis,
Executive Director
**Yuma County Chamber of
Commerce**
Yuma, AZ

Mea Brown,
Executive Director
Tubac Chamber of Commerce
Tubac, AZ

Dave Perry,
President and CEO
**Greater Oro Valley Chamber of
Commerce**
Oro Valley, AZ

MaRico Tippet,
President and CEO
**Greater Vail Area Chamber of
Commerce**
Vail, AZ

Danone North America
Broomfield, CO

Steve Trussell,
Executive Director
Arizona Mining Association
Phoenix, AZ

Mr. STANTON. I have a quick question for Director Burman, covered a little bit earlier but worth repeating. If the legislation to implement the DCP does not move forward, can you describe what will happen in the Basin states?

Ms. BURMAN. Yesterday in the Senate, I think the Basin states testified themselves very eloquently to why this was so important. But I would say the situation on the river is urgent. This is a dangerous situation where we could be reaching critically low elevations that affect the drinking water of 40 million people; that affect 5.5 million acres that could go dry; that affect species, both endangered and not endangered; that affect entire economies and recreation of the Southwest.

Action is needed now. The states are looking at water management decisions they have to make this year. For example, the Metropolitan Water District in Southern California has to make decisions in the very near future about, do they leave water in Lake

Mead this year, or if there is no DCP, do they have to take it out? The Gila River Indian Community in Arizona is facing urgent decisions as water managers about whether they look to help the state and to leave water in Lake Mead. Those decisions can't move forward unless they have the certainty of the Drought Contingency Plans.

Mr. STANTON. Thank you very much. I yield back.

Mr. HUFFMAN. I thank the gentleman.

The Chair recognizes Mr. Costa for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman and Ranking Member, for this important Subcommittee hearing.

And, Commissioner Burman, congratulations, and welcome. As they say, all politics are local, and water, of course, to California is an absolutely critical issue.

As you know, it tends to be either feast or famine. Either we have drought periods or we have an abundance of rainfall and snow in the Sierras. And this year, we have been blessed with the latter. We have an abundance of snow and rain, and we are in excess of 150 percent in some of the areas where measurements have been taking place. San Luis Reservoir, I am pleased, I looked at it in the last week, is full, or practically full, and our other reservoirs are above their averages. And, of course, 10-year averages are how we measure the water.

Congressman Cox and I sent you a letter—well, actually, we sent it to the Regional Director Ernest Conant, and I hope you are familiar with the letter. When Senator Feinstein and I worked several years ago on the WIIN Act, we had hoped there was some flexibility, especially when we had an abundance of rain, as we have had this year, to try to maximize allocation for the respective districts.

Now we are at 100 percent on the Sacramento River Valley. We are at 100 percent with the exchange contractors. With the plant water users, we are at 100 percent. But in the revised estimates in mid-March, we are at 55 percent on the San Luis unit. And for the life of me, when we have an abundance of cfs going through the delta, it begs the question why we are at 55 percent when everywhere else we are at 100 percent. I am wondering if you can respond to that.

The timing is really critical on this stuff. For our permanent crops, obviously, that is good news. But we make decisions with bankers in February and March based upon a water allocation for annual crops. I am talking about the fresh fruits and the fresh vegetables, the asparagus, the tomatoes, all these annual crops, and bankers loan money based upon allocation of water.

So, can you explain why in April and May we seem to be limited when we have this incredible amount of snowpack we are dealing with?

Ms. BURMAN. Thank you, Representative Costa. We have received your letter, and we are working diligently to get you an answer right away. I would say we are acutely aware of the water needs of our water contractors on the Central Valley Project, and we work to maximize those water allocations and to make them as early in the year as we possibly can. On the Central Valley Project, we were able to move forward in mid-March. A lot of times we have

to wait till the end of the month to increase allocations. So, we were very happy to say that we could increase allocations in mid-March.

Mr. COSTA. And you did that for everyone, which is good, but I am at a loss to try to figure out why everybody else is at 100 percent and even the states increased their allocation, and for the Central Valley Project on the San Luis unit, we are stuck at 55 percent. If we can't provide maximum allocation in an abundance in a big hydrological year as this year, then obviously we will never be able to come close to making allocation numbers.

Ms. BURMAN. It has continued to rain and snow in California.

Mr. COSTA. I know, I am trying to take credit for it, since I got blamed for the drought. I think it is only fair. It is not working. Go ahead.

Ms. BURMAN. The state snow reports will come out the very beginning of April, and we will use those and work with National Marine Fisheries Service to see if we are able to increase allocations at that time.

Mr. COSTA. So, wait and see, another 2 weeks, is what you are telling me?

Ms. BURMAN. We will be doing everything we can to maximize those water allocations.

Mr. COSTA. Let me ask a question about the Colorado Drought Contingency Plan. I am glad my colleague here raised the issues that are important, not only to Arizona, but to California and other Lower Basin states. Without the Drought Contingency Plan under current operational agreements, what would happen if Lake Mead goes into shortage conditions below 1,075 feet or 1,025 feet?

Ms. BURMAN. There are specific allocations. First, under the 2007 Guidelines, the Lower Basin states of Nevada and Arizona agreed to make certain cutbacks when the lake reached shortage level, and those shortage levels were named at 1,075, 1,050, and 1,025. Through work with Mexico, Mexico also has agreed to make certain cutbacks at those levels.

What the Drought Contingency Plan does, is it incentivizes and creates reason to create even more conservation. And that conservation will come into effect if Congress moves to complete the Drought Contingency Plans and we move and sign forward to implement. That will start at elevation 1,090. For example, when I checked yesterday, that is exactly where the lake level is today.

Moving forward, the parties will basically be saving more and more water. And by passing the Drought Contingency Plans, what Congress would be doing and what the parties would be doing moving forward is, not only incentivizing further conservation, but allowing the certainty of the parties to move forward to make those investments.

Mr. COSTA. All right. Thank you. My time has expired. Thank you, Mr. Chairman. And we will continue to try to work together to solve some problems.

Mr. HUFFMAN. Thank you.

The Chair now recognizes Mr. Schweikert for 5 minutes.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

I was actually in the State Legislature many, many years ago when we did our groundwater recharge districts and those things.

So, it is sort of fun coming back, reading all the material you are producing, and sort of everything old is still the same.

Madam Commissioner, a couple just so those of us who do tax stuff and not necessarily water. We have had a big hydrological year, if that is the proper terminology. Does that take the pressure off of you, off of us, or should we use this as an opportunity to continue sort of working out the final mechanics on the Contingency Plans? Because I am fearful that there may be a number of us who say, hey, it is a great year, let's not have to deal with this.

Ms. BURMAN. I am fearful of the exact same thing. One year is not going to fix a 19-year drought. We are in a very critical situation on the Colorado River. There are parties, water managers, who have to make decisions in the next several weeks and months. Those decisions can't be made unless they have the certainty to know that the incentives of the Drought Contingency Plan are going to be there, that those investments can be made without being lost.

Those decisions have to be made in Southern California, they have to be made in Arizona, and I am sure there are decisions that need to be made in Nevada and the Upper Basin states. It is critically important that Drought Contingency Plans move forward this year.

Mr. SCHWEIKERT. Mr. Chairman, Madam Commissioner, in that same sort of vein, I have been asked by someone in my district about the quality of the data you get on—we will call it the watershed, the snowshed—on knowing what we have, what the predictions are on the melt rates and those things. Are you comfortable that you have good enough data sets that you can telegraph to those irrigation districts in California, for those of us who have concerns because of where we fall in priority? Do you have the tools you need right now?

Ms. BURMAN. We have very robust data on the Colorado River system. And Reclamation works with the U.S. Geological Survey, we work with National Weather Service, with NOAA, with universities, with our own Ph.D. modelers, to put forward that information. And there is one thing about the information we put forth that summarizes all of that. It is watched by seven Basin states, it is watched by Mexico, so we know it has to be accurate because there are a lot of people watching and checking our math.

Mr. SCHWEIKERT. On the back half of that, as a Member of Congress, if we wanted, ourselves or one of us, to log in, other than always watching the lake levels of Lake Powell—which we all go to that website—is there a wonderful porthole that I can go in that I can pass on to our constituents to say, understand, this is what is happening in our part of the country?

Ms. BURMAN. The Reclamation website is a very good place to go, as far as Colorado River information. There are a number of other places to go for more specific local information.

Following up on, are there more tools that are needed, we are never satisfied with just what we have. The President's memo in October of last year, it called on making Western water supplies more reliable, and it did that by looking at what are our scientific tools that we need to improve. Forecasting. Forecasting is one of those tools.

Reclamation just recently closed a prize competition. I set it out basically to the Nation—can you improve forecasting in Colorado River Basin and other places? And we had so many entrants. We have three folks that we have picked to work with, but those types of tools are improving all the time.

Mr. SCHWEIKERT. Mr. Chairman, last sort of quirky question. And don't point and laugh at me, but I don't have the joy of sitting in the Committee. Over the years, we have always had certain folklore. We need to encourage California to line their canals because of seepage or these sorts of things. Are there other things that wouldn't fit typically into a Drought Contingency Plan that—we talk about these things, because, as you know, from Arizona, we are scared to death of our friends to the West stealing our water.

Mr. MCCLINTOCK. Well, wait just a second.

Mr. SCHWEIKERT. I mean it with love. But are there actually those sorts of ideas out there that, over the next couple decades, could be drawn in, saying there are other things also, for all of us, that would help us on, if not today, in a future drought situation, that we could start embracing either the technology or the engineering?

Mr. HUFFMAN. Right. And at the risk the stealing time, Commissioner Burman, could you wrap that answer in 30 seconds?

Mr. SCHWEIKERT. Thank you for your patience, Mr. Chairman.

Mr. HUFFMAN. Thank you.

Ms. BURMAN. I think there is an incredible story to be told in the Southwest. You look at the conservation programs, of agriculture, of the cities, of California, Nevada, Arizona, which I am most familiar with, the Upper Basin is very similar, it is a pretty incredible story to tell about the changes in efficiencies, the changes in conservation that have moved forward in the last decade. That doesn't mean there isn't always room to do more, but the story is very impressive.

Mr. SCHWEIKERT. Thank you.

Mr. HUFFMAN. Thank you.

Mr. McClintock and I were just commiserating. It is pretty rare that Members of the California delegation would ever feel outnumbered on anything, but clearly, Arizona is showing up on this issue.

Mr. MCCLINTOCK. The last time that happened, it didn't work out well for California. Just saying.

Mr. HUFFMAN. We are going to recognize the next Member from Arizona, the Chair of the Full Committee, Mr. Grijalva, who has some comments and questions about the Arizona River—I mean the Colorado River.

Mr. GRIJALVA. Thank you. It is not proprietary, but it does feel that way occasionally, you know.

Thank you, Mr. Chairman. I want to thank you and the Ranking Member for expediting this hearing. The timing of this is critical, and much appreciation for that and the work of your staff in working with all the stakeholders and the Basin states as well. In particular, Mr. Muirragui, who did a wonderful, a really good job in putting something together that we can all support, I hope.

Commissioner, welcome, and thank you. Can you please tell us how the DCP fits within the framework of existing environmental compliance?

Ms. BURMAN. Certainly, Mr. Chairman. Both the Upper and Lower Basin Drought Contingency Plans were designed specifically to fit within existing environmental compliance. First, let's start in the Upper Basin. The Drought Response Operations Agreement, one of the key agreements in the drought contingency package, was designed with input from a broad range of stakeholders to strike a careful balance between protecting environmental resources throughout the Upper Basin and assisting in facilitating adding storage to Lake Powell.

The Upper Basin states achieved this careful balance by recognizing from the very outset that any drought response actions that would send additional water from the key upstream reservoirs would do so within the rigorous bounds of the applicable Records of Decision and Biological Opinions.

Conversely, after the efforts to protect Lake Powell have been completed, we need to ensure the additional water sent downstream is able to be replaced, leaving those upper reservoirs whole.

In conclusion, in this example, the Drought Contingency Plans use the environmental flexibility to not only send water to Lake Powell but then to allow the upper reservoirs to recover, all while complying within the framework of existing Records of Decisions and Biological Opinions. And I am sure the next panel will want to talk about that.

Turning to the drought contingency provisions in the Lower Basin, the Lower Basin DCP provides for volumes of water conservation by each of the Lower Basin states at identified Lake Mead elevations. An important note, at these same elevations, under historic agreements reached in 2017 with Mexico, water savings by Mexico will take place at these identical Lake Mead elevations.

The primary mechanisms for achieving these water savings, which add extra water to Lake Mead, are designed to occur through the creation of Intentionally Created Surplus, what we call ICS. ICS is a water conservation tool that was designed in the 2007 Guidelines to incentivize extraordinary conservation, allowing parties to save water now, leave it in Lake Mead, and recover it at a later date.

The new element of the DCP is that the states have now agreed that ICS will occur and identified required volumes. And at the specified Lake Mead levels I just identified, the lower Lake Mead goes, the greater the required water savings, thereby decreasing Lake Mead's decline. In this way, we are utilizing the essential tools that are the framework of the 2007 Guidelines by adding mandatory savings.

At the same time, the actions to be undertaken under the Lower Basin DCP are designed to fit within the environmental documents prepared, pursuant to the Endangered Species Act and the National Environmental Policy Act and the 2007 Final Environmental Impact Statement on Colorado River Interim Guidelines for Lower Basin shortages and coordinated operations for Lake Powell and Lake Mead.

Mr. GRIJALVA. Thank you, Commissioner. I think for many members of this Committee, your answer is very welcomed and very much appreciated. Knowing that environmental requirements and our Nation's environmental laws are going to be respected by the DCP, I think, is the added impetus to moving this as rapidly as possible, and that is very much appreciated. And as Chairman Huffman said in his opening statements, I will be introducing legislation shortly to authorize the DCP and expedite its movement through Committee and eventually action.

I should note that the legislation that is being introduced has the support of all seven Basin states. It respects the environmental laws, as you outlined, and allows us to immediately authorize the DCP, which is very, very important, given the urgency of time and the millions of people that are affected by what we do here.

I want to thank the states for all the time that they spent with our staff and the vast majority of it constructive. Thank you.

I also want to note the absolute critical role of the tribes in the DCP, the Colorado River Indian Tribes, and the Gila River Indian Community are essential to the DCP's success, and I want to commend them, their leadership, their communities, for the contribution that they have made to the health of the Colorado River.

Finally, a lot of discussions regarding the Salton Sea. I have made a commitment, Madam Commissioner, to Congressman Ruiz and Congressman Vargas to work with them, and pledge to work with them and affected stakeholders to deliver some possible solutions to the Salton Sea. They have my commitment on that. And I hope, Commissioner, going forward, that we will be able to work with your office to explore that and see what possibilities are available in terms of the remediation, restoration agenda that is being talked about for Salton Sea. And I look forward to that.

Ms. BURMAN. We would be happy to work with you, Mr. Chairman.

Mr. HUFFMAN. All right, thank you.

The Chair now recognizes the next Member from Arizona. I had no idea the Arizona delegation was this large, but, Mrs. Lesko, you are recognized for 5 minutes.

Mrs. LESKO. Thank you, Mr. Chairman. Yes, we are out in full force today, bipartisan no less.

I just want to say, it is not really a question. I just have a statement.

I was in the Arizona Senate when the discussion of the Drought Contingency Plan started, and it was quite contentious for a while. So, I am very pleased with the work that you have done, with the work that our Arizona Department of Water and Mr. Buschatzke has done, with Governor Ducey, and with the Arizona State Legislature. It has been an effort. I know at times it has been contentious, but we hung in there.

And, Mr. Grijalva, thank you for leading on the legislation on this, and I do believe this is truly going to be a bipartisan coalition to preserve our water rights in Arizona. Thank you so much.

Mr. HUFFMAN. The Chair now recognizes Mr. Gallego for 5 minutes from the state of—Arizona, yes.

Mr. GALLEGO. Thank you, Mr. Chair. We have achieved some really big bipartisan bridges here. The most important one, the

fact you have Maricopa County and Pima County agreeing to anything is quite miraculous, especially for us Arizonans that know the politics there.

But first of all, all jokes aside, I really want to thank Chairman Grijalva. We are very lucky as Arizonans, both on this Committee, and if you have worked on any issues, the fact that he happens to be Chairman at this exact moment in time when we needed him, and he has ushered this through the Federal process, which can be tricky, and the fact that he has been able to do it smoothly, and will be able to continue to move forward in such a fast manner, is all really due to him, his effort, and his staff, and I think we should all thank him for that.

I also, of course, want to thank our State Representatives, State Senators, Governor, and all of our staff in water departments in Arizona who really put themselves out there, stretched themselves in many ways in terms of partisanship, both Democrats and Republicans, to make this happen.

And last, our tribal nations. They really stepped up, and they did not need to do that. Indian Country in Arizona was truly putting their heart out there for Arizona, and if it wasn't for them working with us in a collaborative manner and really stretching themselves, this would never have been done. And we need to make sure that we recognize the fact that they deserve just as much praise as any of the other politicians. So, I am very glad to see this happen.

You know, Arizonans, as we say, whiskey is for drinking, water is for fighting. But apparently today, water is for compromising, and that is a good thing. Thank you.

Mr. HUFFMAN. All right. Thank you.

I think Ms. Cheney is here to introduce one of the second panel witnesses, right? So, Mr. Fulcher, did you want to be recognized?

Mr. FULCHER. Thank you, Mr. Chairman—

Mr. HUFFMAN. You are recognized.

Mr. FULCHER [continuing]. And thank you for being here.

Mr. HUFFMAN. Thank you for not being from Arizona.

Mr. FULCHER. We are close, but—

Mr. GALLEGU. We all can't be perfect, you know.

Mr. FULCHER. You are going to get us both in trouble.

Thank you, Commissioner, for being here. I wanted to just let you know, I am from Idaho, not Arizona, and the water users there are very interested in the streamlined process. That has been something that has the potential of giving some of the locals just a little bit more control. And I wanted to just have you talk about that for a moment. How do you see that moving forward, and what would a qualifying entity need to do in order to implement that streamlined process for a certain legislation?

Ms. BURMAN. In discussing streamlining of, say, environmental compliance as you move forward on important projects, the—

Mr. FULCHER. Specifically, if I may, it would be more for locals to have more input in a specific project.

Ms. BURMAN. So, what we have done, there are a number of things that have moved forward. This Congress has just passed title transfer legislation, which is something that the Department has been hoping for, for a number of years. We are excited that that has passed. That process will streamline and allow the Admin-

istration to move forward and set up a program, which we are working hard to do, that will allow local entities to transfer their Reclamation projects to local ownership, giving them the true, on-the-ground control, instead of having the Federal Government controlling those projects.

On a number of other fronts, both the Administration and the Department specifically have been working to streamline the environmental process, to look for more local control, but also to see if those processes can be done so they are understandable to a layperson, so that they can be done within the bounds of a time frame that gets a real project done, that can be done within the page limits where a layperson can pick up a document and understand it.

That is just an example of some of the ways that we are trying to move forward to show that there is more local control.

Mr. FULCHER. Right. And that is specifically what I was looking for, potentially off-line, or at some further point, I could get some more information, or with that specific process that a qualifying entity might need to go through. So, that was the genus of my question.

Ms. BURMAN. We are happy to work with you, sir.

Mr. FULCHER. All right. Thank you.

Thank you, Mr. Chairman. I yield back.

Mr. HUFFMAN. All right. Thank you, Mr. Fulcher.

Commissioner Burman, thanks for your testimony. We will now excuse you and bring up our second panel of witnesses.

Ms. BURMAN. The real experts, Mr. Chairman.

Mr. HUFFMAN. Thank you.

Ms. BURMAN. Thank you.

Mr. HUFFMAN. As our second panel comes forward, let me remind the witnesses that under Committee Rules, they should limit their oral statements to 5 minutes. The entire statement, however, will appear in the hearing record. Again, for the second panel witnesses, when you begin your testimony, there will be a green light. When there is 1 minute remaining, that light will turn yellow, and the red light means it is time to complete your statement.

I will allow the entire panel to testify before we begin the questions. And now I will begin to introduce our witnesses. We will allow a minute here for folks to come forward.

This second panel includes the governors' representatives of the seven states of the Colorado River Basin who are with us to present their testimony. Since the DCP includes specific plans for the Lower Basin and the Upper Basin, we will start with the three Lower Basin representatives and then hear from the Upper Basin.

So, in order of their testimony, we will hear first from Peter Nelson, who is the Chairman of the Colorado River Board of California. Then we will hear from Thomas Buschatzke, Director of the Arizona Department of Water Resources. We will then hear from John Entsminger, General Manager of the Southern Nevada Water Authority, located in Las Vegas.

And then we will move to the Upper Basin. We will hear from James Eklund, who is Colorado's Commissioner to the Upper Colorado River Basin Commission. And then from the state of New Mexico, we will hear from John D'Antonio. He is the State

Engineer of New Mexico. Then we will hear—this is a big panel—then we will hear from Eric Millis who is the Director of the Utah Division of Water Resources.

And then finally, I will invite my colleague, the gentlewoman from Wyoming to introduce the witness from Wyoming, who will be our final witness.

Ms. Cheney.

Ms. CHENEY. Thank you very much, Mr. Chairman. And thank you to all of you for being here.

It is my particular honor to introduce our State Engineer, Mr. Pat Tyrrell, and to welcome him here. He has done more for Wyoming and Wyoming water issues than I think just about anybody else living today, and we are sad that he will be retiring as of Monday. But really, I am honored to have this opportunity to thank him for everything that he has done for the state, to thank him for the continued advice and counsel and guidance he will be giving us after he retires, and also to thank him for his important work on this plan, which I am very pleased to see the bipartisan support.

And I would like to say, Wyoming may not have as large a contingent in Congress as Arizona, but we are certainly quality. Not that Arizona's not. So, let me then stop there and welcome you, Pat. Thank you very much for being here, for all of your time.

And thanks, Mr. Chairman, for letting me take the opportunity to introduce Pat.

Mr. HUFFMAN. We are going to blow up this multi-state settlement if we continue here.

All right. Mr. Nelson, you are up first. You are recognized for 5 minutes.

STATEMENT OF PETER NELSON, CHAIRMAN, COLORADO RIVER BOARD OF CALIFORNIA, GLENDALE, CALIFORNIA

Mr. NELSON. Great. Thank you. Good morning. Thank you for the introduction, and thank you, Chairman Huffman, Ranking Member McClintock, and Committee members. I have 32 years of farming experience in the Coachella, Imperial, and Palo Verde Valleys. I serve on the Coachella Valley Water District Board, and from 2000 to 2014, I served on the Salton Sea Authority. I have roots in the Basin near the Salton Sea, and hope for my granddaughters to grow up in a vibrant community with plenty of water and clean air.

Today, I am appearing on behalf of the Colorado River Board of California. Thank you for the opportunity to testify on the Colorado River Drought Contingency Plan. These plans are of vital importance to California and the entire Colorado River Basin, including the Republic of Mexico. I will focus my comments on the Lower Basin DCP.

Enactment of Federal legislation is needed this year to implement the Lower Basin DCP, which could result in significant benefits for California, including, but not limited to, incentivizing the conservation and storage of water in Lake Mead this year, with the assurance of greater flexibility in storage and recovery of ICS supplies so that demands and needs are met during shortage conditions; providing operational certainty for Intentionally Created

Surplus conserved water supplies if Lake Mead declines to below elevation 1,075; all of which result in reducing the risk of Lake Mead dropping below the critical elevation level of 1,020 feet, from over 40 percent without the DCP, to just about 5 percent with implementation of the DCP during this interim period.

In 2000, the Basin's combined reservoir system was approximately 95 percent of capacity. By 2004, the reservoir system had fallen to just about 50 percent of capacity. The continuing drought conditions led to the seven Basin states collaborating on the development of the 2007 Colorado River Interim Guidelines. The 2007 Guidelines have helped us manage the Lower Basin better, but not enough to overcome the last 19 years of drought.

The DCP agreements would strengthen the most effective tools of the 2007 Guidelines. This DCP would significantly reduce the risk of Lake Powell and Mead declining to these critically low elevations through the remaining term of the 2007 Guidelines which ends in 2025.

The Salton Sea and the Imperial Irrigation's participation in the Lower Basin DCP is being addressed. California acknowledges concerns recently expressed regarding Salton Sea management and restoration issues. Unfortunately, as of today, the Lower Basin DCP would be implemented in California without the Imperial Irrigation's participation. As Chairman for only 4 months, this was a big disappointment to me personally. I wanted the IID to be a part of the DCP and will work to bring them back. The Lower Basin DCP agreement was amended to give the IID the option to become a party to that agreement after its effective date, with the consent of all the parties here.

To meet the Commissioner's deadline, the DCP authorization to protect California's ICS supplies, the Metropolitan Board authorized that agency to step in for the IID and assume responsibility of the volume of the DCP contributions that IID had negotiated in its intrastate agreements with Metropolitan.

In either case, with or without the IID's participation, there is no impact on air quality or natural resources in the Salton Sea during the remaining interim period of the 2007 Guidelines. Along with our sister states in the Basin, we are united in the goal of causing no harm to the Salton Sea, and hope that the IID will initiate its commitment to participate in and implement the DCP in the same way that it began, a willing partner in a consensus-based, stakeholder-driven effort.

In closing, in choosing compromise and collaboration over conflict and litigation, we ask that you enact the legislation to implement the DCPs. We have the support of the seven states, the Republic of Mexico, as well as stakeholders across the Basin, including members of the environment community.

Thank you very much for the opportunity to address you, and I look forward to your questions.

[The prepared statement of Mr. Nelson follows:]

PREPARED STATEMENT OF PETER NELSON, CHAIRMAN, COLORADO RIVER BOARD OF CALIFORNIA, COLORADO RIVER COMMISSIONER, STATE OF CALIFORNIA

Good morning, my name is Peter Nelson. I am providing this testimony on behalf of the Colorado River Board of California (Board). I want to thank you for the opportunity to testify before this Committee on the Colorado River Basin Drought

Contingency Plan (DCP) and the proposed authorizing legislation, both of which are important to California and the entire Colorado River Basin, including Mexico.

WHY CALIFORNIA NEEDS THE DCP IMPLEMENTED THIS YEAR

I am here this morning to request the help and support of the Congress in achieving the implementation of the Lower Basin DCP this year, as it is vital to California's Colorado River agencies. Specifically, implementation of the Lower Basin DCP this year would:

- Provide operational certainty regarding Intentionally Created Surplus (ICS) conserved water supplies if Lake Mead declines below elevation 1,075 feet;
- Reduce the risk of Lake Mead dropping below the critical elevation of 1,020 feet from over 40 percent without the DCP to about 5 percent with implementation of the DCP; and
- Incentivize the conservation and storage of water in Lake Mead this year with the assurance of greater flexibility in storage and recovery of ICS supplies.

BACKGROUND

The Colorado River Board is a state agency established in 1937 to protect California's rights and interests in the water and power resources of the Colorado River System. The Chairman of the Board also serves as the Governor's representative and California's Colorado River Commissioner on Colorado River water and power related matters as it works with other state of California agencies, the other six Colorado River Basin states, various Federal agencies, Native American tribes, the environmental community, the Republic of Mexico, and others.

The Board is composed of 10 members, appointed by the Governor, and includes: the Directors of both the Department of Water Resources and the Department of Fish and Wildlife, the Coachella Valley Water District (CVWD), the Imperial Irrigation District (IID), the Los Angeles Department of Water and Power, the Metropolitan Water District of Southern California (Metropolitan), the Palo Verde Irrigation District (PVID), the San Diego County Water Authority (SDCWA), and two at-large public members. Four of the six water agencies, CVWD, IID, Metropolitan, and PVID, represented on the Board were actively involved in negotiations and development of the Lower Basin DCP and related intra-state implementing agreements.

The water and power resources of the Colorado River System are vital to California. California's basic Colorado River mainstream apportionment of 4.4 million acre-feet of Colorado River water provides for the irrigation of over 900,000 acres of some of the Nation's most productive farmlands and supplies water to more than 20 million people along California's south coastal region. California receives about 3.5 billion kilowatt hours of electrical energy from Colorado River hydroelectric facilities. The Colorado River System contributes billions of dollars to California's and the Nation's economy each year, including benefits from recreation and tourism.

California and the water providers in California that deliver Colorado River water (CVWD, IID, Metropolitan and PVID) have been working to respond to increased pressures on California's Colorado River allocation that are the result of both increased demands for Colorado River water and decreasing inflows into the system. California's Colorado River water agencies have taken a range of actions to respond to drier hydrology and increased demand including: the Quantification Settlement Agreements (2003), lining of portions of the Coachella and All-American Canals, land-fallowing programs, regulatory storage construction, adoption of extensive urban water conservation measures, as well as participation in binational water conservation projects with Mexico. These efforts have yielded increased water supply reliability and improved management of California's Colorado River water supplies.

WHY THE DCP NEEDS TO BE IMPLEMENTED THIS YEAR

It is a well-known fact that the Colorado River Basin has been in a severe and sustained drought condition since 2000, when the Basin's combined reservoir system was approximately 95 percent of capacity. By 2004, the reservoir system had fallen to just above 50 percent of capacity. The continuing drought conditions led to the seven Colorado River Basin states collaborating on the development of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Guidelines).

The 2007 Guidelines include two key features that have been effective in managing the reservoirs in continuing drought, including (1) incentivizing conservation of water supplies and storage of that water in Lake Mead as Intentionally Created Surplus (ICS); and (2) the coordinated and conjunctive operations and management of Lakes Powell and Mead. Since the 2007 Guidelines, nearly 2.5 million acre-feet (cumulative) of Colorado River water supplies have been conserved and stored in Lake Mead. The Basin states seek to build upon the success of the 2007 Guidelines with the DCP agreements by expanding and strengthening the most effective tools in the 2007 Guidelines while improving flexibility and making specific commitments to store water in Lake Mead. The DCP agreements have been designed to fit within the in-depth environmental reviews that were conducted in connection with the 2007 Guidelines. If the DCP is implemented this year, it would significantly reduce the risk of Lake Powell and Lake Mead declining to critically low elevations through the remaining term of the 2007 Guidelines which terminate at the end of 2025.

The drought has been even worse than expected when the 2007 Guidelines were adopted, which has resulted in reservoir elevations continuing to decline in most years since 2007. Since the Guidelines were adopted, the seven Basin states, the Department of the Interior, and even the Republic of Mexico have responded to the worsening drought through continued, and multi-faceted approaches to mitigate the impacts of reduced inflow into the System. These “out-of-the-box” and collaboratively developed measures included: construction of the Warren H. Brock Reservoir Regulatory Storage Project; a pilot-run of Reclamation’s Yuma Desalting Plant; and the Pilot System Conservation Program. Without these efforts and other voluntary efforts in the Basin, Lake Mead would likely have fallen below elevation 1,075 feet as early as 2015, which would have led to a declaration of a shortage condition by the Secretary of the Interior.

This winter season appears to be providing above average precipitation and snowpack, but one good year cannot fix the ongoing trend of declining inflows into the reservoir system. Over the past 18 years, only 5 years have produced flows above average, and the combined storage in Lakes Powell and Mead in each of the past 6 years has been below 50 percent of capacity. The 2007 Guidelines and the voluntary efforts taken since then, unfortunately, have not been enough to keep the reservoirs from continuing to decline. The drought conditions have been worse than predicted and new measures are needed to keep the system stable and protect water supplies for the 40 million people throughout the Colorado River Basin who rely on this vital source of water. This is what the DCP is intended to do and why California, along with every other Basin state, is asking Congress to take action to authorize implementation of those agreements this year.

THE SALTON SEA AND IMPERIAL IRRIGATION DISTRICT’S PARTICIPATION

California acknowledges concerns recently expressed regarding Salton Sea management and restoration related issues. As of the date of this testimony, the Lower Basin DCP will be implemented in California without the IID’s participation. After the IID indicated that it would not meet the Commissioner of the Bureau of Reclamation’s deadline for DCP authorization on March 18, 2019, the Lower Basin DCP Agreement was amended to give a contractor the option to become a party to that agreement after its effective date, with the consent of all of the other parties.

In order to meet the Commissioner’s deadline and protect California’s ICS supplies, the Metropolitan board authorized that agency to step in for the IID and assume responsibility for the volume of DCP Contributions that the IID had negotiated in its intra-state agreement with Metropolitan. That intra-California agreement to implement the Lower Basin DCP between Metropolitan and IID would have limited the IID’s DCP Contributions to no more than a cumulative total of 250,000 acre-feet of already conserved water, currently stored in Metropolitan’s service area or in Lake Mead as ICS. As such, even if IID opts to participate in the Lower Basin DCP at a later date, IID’s participation will have no impact on the air-quality or natural resources of the Salton Sea during the remaining interim period. Finally, although implementation of the DCP going forward, with or without the IID’s participation, will have no impact on the resources of the Salton Sea during the remaining interim period, the California agencies’ preferred option would be to have the largest user of Colorado River water in the entire Basin participate in and be part of the DCP implementation. The state of California, its Colorado River agencies, and our sister states in the Basin are united in the goal of causing no harm to the Salton Sea and await the IID to finalize its commitment to participate in and implement the DCP in the same way that it began: as a willing partner in the consensus-based, stakeholder-driven effort.

CONCLUSIONS

In summary, the California agencies are prepared to execute the DCP interstate agreements upon adoption of Federal legislation authorizing and directing the Secretary of the Interior to implement the DCP. In collaboration with our colleagues in the other six Colorado River Basin states, the state of California and its Colorado River agencies have worked diligently over the past several years to develop the DCP inter- and intra-state agreements as well as the proposed Federal legislation before you. The proposed DCP—like the 2007 Guidelines, the 2005 Lower Colorado River Multi-Species Conservation Program, and ongoing binational processes with Mexico—is an example of continuing to choose the path of compromise and collaboration over that of conflict and litigation. It is in this spirit of collaboration that California appears before you today and requests that you take action to approve this innovative and important Colorado River management program that not only has the support and commitment of participation by seven states and the Republic of Mexico, but has also earned the support of stakeholders from across the Colorado River Basin, including members of the environmental community. Thank you for the opportunity to provide this testimony and I look forward to answering any questions that the Committee may have.

Mr. HUFFMAN. Thanks, Mr. Nelson.

Mr. Buschatzke, you are recognized for 5 minutes.

**STATEMENT OF TOM BUSCHATZKE, DIRECTOR, ARIZONA
DEPARTMENT OF WATER RESOURCES, PHOENIX, ARIZONA**

Mr. BUSCHATZKE. Thank you. Good morning, Chairman Huffman, Ranking Member McClintock, and members of the Subcommittee. I am Tom Buschatzke, the Director of the Arizona Department of Water Resources. Thank you for providing me an opportunity to present testimony on behalf of the state of Arizona on the Lower Basin Drought Contingency Plan, or the DCP. It is a plan negotiated by representatives of the states of Arizona, California, Nevada, water agencies within those states, and the U.S. Bureau of Reclamation to address the ongoing drought in the Lower Colorado River Basin that began nearly two decades ago, and that has no end in sight.

The DCP also accounts for the drier future that we all expect will be the norm for the river in the coming decades. The drought and that drier future could lead to Lake Mead falling to critical elevations, resulting in draconian reductions in water deliveries throughout the Lower Basin. The DCP is an urgent measure that could help avert such a crisis. The time to act is now.

The DCP and the Drought Contingency Plan crafted by the Upper Basin states are the latest examples of the states working together with the Bureau of Reclamation to achieve agreed-upon solutions to issues facing the states regarding the Colorado River. The Republic of Mexico has also agreed to a binational water scarcity plan for their Colorado River water that provides additional benefit to the actions of the seven Basin states.

We have developed a sound plan for protecting the water supply in both lakes in the face of historic drought conditions, and we have done so in a manner that continues to protect and respect the water rights of those that rely on the Colorado River.

The DCP is innovative and strikes a careful balance between flexibility and certainty that results in a more sustainable Lake Mead. The DCP is an overlay to the existing operational criteria

set out in the 2007 Interim Guidelines that include water shortages in the Lower Basin to protect critical Lake Mead elevations.

The DCP recognizes that the 2007 Guidelines are covered by existing environmental compliance under NEPA and the ESA. The DCP was expressly designed to fall within the parameters of that existing environmental compliance. The DCP benefits accrue as a result of less water being delivered from Lake Mead.

The DCP will have consequences for water users in Arizona. Nevertheless, stakeholders in Arizona, that include tribes, cities, towns, counties, irrigation districts, agriculture, NGOs, and members of our legislature, came together to create an Arizona implementation plan to engender support for the DCP.

Water users in Arizona, recognizing the urgent need to address Colorado River issues, agreed to make sacrifices. Their support enabled legislative action on January 31, 2019, with nearly unanimous approval by the State Legislature, authorizing me to sign the DCP documents and to bind the state of Arizona. Governor Doug Ducey signed the legislation that same day, in the same room that Arizona's landmark 1980 Groundwater Management Act was signed, symbolizing the importance of the DCP to the state.

It is important to understand that the Drought Contingency Plan is an initiative of the seven Basin states. I recognize that the participation of the Bureau of Reclamation over the last 4 years was key to the success of this endeavor, and I thank them.

Over the last two decades, innovative management on the Colorado River has been dependent upon cooperation between the states and upon partnerships with the Federal Government, even as presidential administrations have changed. The DCP continues that paradigm.

In conclusion, I urge the adoption of the bipartisan Federal enabling legislation necessary to implement the Drought Contingency Plan.

Thank you for the opportunity to provide testimony to the Subcommittee, and I look forward to answering your questions.

[The prepared statement of Mr. Buschatzke follows:]

PREPARED STATEMENT OF THOMAS BUSCHATZKE, DIRECTOR, ARIZONA DEPARTMENT
OF WATER RESOURCES

Introduction

My name is Thomas Buschatzke and I am the Director of the Arizona Department of Water Resources. Thank you for providing me an opportunity to present testimony on behalf of the state of Arizona on the Lower Basin Drought Contingency Plan, or LBDCP. The LBDCP is a plan negotiated by representatives of the states of Arizona, California and Nevada, water agencies within those states and the U.S. Bureau of Reclamation to address the ongoing drought in the Lower Colorado River Basin that began nearly two decades ago and that has no end in sight.

The Upper Division states of Colorado, New Mexico, Utah, and Wyoming, along with the Bureau of Reclamation, have negotiated a drought contingency plan for the Upper Colorado River Basin. The two DCPs work together to benefit the Colorado River system. The state of Arizona ("State") supports the implementation of both plans.

The DCPs are the latest examples of the seven Basin states working together with the Bureau of Reclamation to achieve agreed-upon solutions to issues facing the states regarding the Colorado River. The Republic of Mexico, which has a right to receive water from the Colorado River under the Mexican Water Treaty of 1944 with the United States, is also a key participant in the management of the Colorado River. Mexico has agreed to a Binational Water Scarcity Contingency Plan pursuant to Minute 323 signed in September 2017. Working together, we have developed a

sound plan for protecting the water supply in both reservoirs in the face of historic drought conditions and we have done so in a manner that continues to protect and respect the water rights of those millions of people who rely on the Colorado River.

The seven Basin states have drafted a series of agreements to implement the DCPs. These agreements are attached to a letter sent by the seven Basin states to the Members of Congress on March 19, 2019. The letter also included proposed Federal legislation necessary for the plans to become effective. We request that Congress take action immediately to pass that legislation, which directs the Secretary of the Interior to execute the agreements and carry out their provisions after they have been executed by the non-Federal parties to the agreements. In addition to providing you with testimony on the DCPs, I am here today to request your support in passing that legislation as quickly as possible.

Importance of the River to the Lower Basin

The Colorado River is a critical source of water for 40 million people and businesses that reside in the River's Upper and Lower Basins. In addition to providing water for these municipal uses, the River supplies water for the irrigation of nearly 5.5 million acres of land in the Upper and Lower Basins and produces power for millions of people. In the United States portion of the Lower Basin, the River supplies water to nearly 25 million people and generates electrical power for approximately 8 million people.

Last year's runoff into the Colorado River was the second lowest since 2000 but it is just 1 year in nearly two decades of drought in the watershed. The Bureau of Reclamation is predicting that Lakes Powell and Mead, the two largest man-made reservoirs in the United States, could reach critically low levels as early as 2021 or 2022. Although this winter's snowpack is well above normal, one thing we have all learned is that one above-normal year will not erase over 19 years of drought on the system.

In Arizona, the Colorado River supplies nearly 40 percent of the State's water use. An initial shortage on the Colorado River will be felt first by critical underground water storage and replenishment programs, then our agricultural communities within the service area of the Central Arizona Project ("CAP"), and finally by our municipalities and tribal water users within the CAP service area. The CAP serves 3 of the State's 15 counties, contributing to the water supplies of approximately 80 percent of the State's population, including the major metropolitan areas of Phoenix and Tucson. In addition, nine Native American communities have rights to water through the CAP, and CAP water is delivered to the agricultural communities in central and southern Arizona.

For over a century, Arizonans have worked hard to provide secure water supplies in an arid state prone to drought. Initially, development of Arizona's Colorado River water supplies occurred along the River. The authorization and construction of the CAP constituted a significant additional step for Arizona to put its Colorado River entitlement to beneficial use.

Since the initial deliveries of Colorado River water through the CAP in May 1985, the State's water users within the CAP service area have reduced their dependency on finite groundwater supplies. At the same time, they have increased reliance on the State's renewable surface water supplies including the Colorado River. Today, nearly 40 percent of the State's annual water demand is met with Colorado River water supplies. It is difficult to overstate the importance of this water supply to the State's economy, environment, and its quality of life.

The DCPs

In 2013, representatives of the seven Basin states informed the Secretary of the Interior that they would begin discussing ways to address the ongoing drought in the Colorado River Basin. The states' representatives also asked the Bureau of Reclamation to assist in those efforts. Initial discussions focused on a single basin-wide plan.

In 2015, the three Lower Basin states began discussions focused on developing a plan for the Lower Basin. The goal was to develop a plan to reduce the threat of Lake Mead's elevation falling to critically low levels that would result in significant reductions in deliveries of Colorado River supplies to water users and potentially impact hydropower generation in the Lower Basin states.

At the same time, the Upper Basin states embarked on their own drought contingency plan. It was anticipated that the two plans would ultimately converge. These plans were intended to overlay the 2007 Guidelines and last for the duration of the Guidelines, which are in effect through 2026.

The LBDP is the product of these lengthy negotiations among the Lower Basin states. Under the terms of the LBDP, the Lower Basin states will take reductions

in water deliveries or make contributions to Lake Mead at various elevation levels through 2026. These reductions and contributions will create additional water in Lake Mead, which in turn, lowers the risk of the reservoir reaching critically low elevations. Key elements of the LBDCP create additional incentives, while at the same time lessening disincentives inherent in the 2007 Guidelines, for the storage and delivery of Intentionally Created Surplus (ICS).

The DCPs recognize that the 2007 Guidelines are covered by existing environmental compliance under the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The DCPs were expressly designed to fall within the parameters of that existing environmental compliance.

The appropriate parties to the DCPs, including me on behalf of the state of Arizona, will sign the agreements attached to the March 19, 2019 seven Basin states' letter to implement the DCPs. Upon execution of the LBDCP, the Republic of Mexico will also contribute additional water for storage in Lake Mead, in parity and alignment with the United States parties, pursuant to the Minute 323 Binational Water Scarcity Contingency Plan agreed to by Mexico and the United States.

Understanding the significance of the Colorado River supplies and the impacts of the LBDCP to Arizona's communities and economy, the State's water community, including Central Arizona Project, Salt River Project, tribes, irrigation districts, municipalities, industrial water users, environmental organizations, and with direct participation of Arizona's legislative leaders, worked diligently to develop a series of intrastate agreements, known as the Arizona Implementation Plan. Those agreements are essential to achieving the reductions in Arizona's Colorado River demands required by the LBDCP.

Following extensive debate in public meetings, irrigation district board rooms, the press and at the State Legislature, on January 31, 2019, the Legislature enacted legislation in support of the intrastate agreements and a statutorily required resolution authorizing me to sign the LBDCP after the Federal legislation is passed. On the same day, Governor Doug Ducey signed the legislation and the resolution, making it effective immediately.

Moving Forward with the DCPs

The agreements to implement the DCPs will be signed by the parties upon the passage of the Federal legislation and will remain in effect until December 31, 2026, which is when the 2007 Guidelines expire.

The DCPs are a significant incremental step toward the sustainability of the Colorado River system. They build on prior actions that incrementally improve the management of the River.

The seven Basin states recognize that the DCPs are not a permanent long-term solution. We recognize that more must be done by the states to prepare for a drier future. The state of Arizona is committed to begin working on the renegotiation of the 2007 Guidelines soon after the DCPs become effective, and I believe that the other six Basin states share that commitment.

Need for Prompt Passage of Federal Legislation

With the adoption of the 2007 Guidelines, the seven Basin states first agreed to criteria enumerating shortages in the Lower Basin and coordinating the operations of Lakes Powell and Mead, to address the risk of these reservoirs falling to critically low elevations.

The operating experience gained from the 2007 Guidelines, as well as emerging scientific information regarding a drier future in the Colorado River Basin, has caused the states and the Bureau of Reclamation to seek more flexible water management programs and greater required reductions in use from, or contributions of water to, Lake Mead through the DCPs.

The immediate implementation of the DCPs provides immediate benefits to the Colorado River system. Delaying the implementation of the DCPs greatly reduces the sustainability of the Colorado River system. Federal legislation is needed to allow the immediate implementation of the DCPs, which will reduce the probability that Lakes Powell and Mead will decline to critically low elevations. The seven Basin states have provided language to Members of Congress that we believe is appropriate for the Federal legislation. It is our hope that Federal legislation can be finalized as soon as possible, allowing the DCP agreements to be executed as written and implemented in 2019.

Given the urgent need for action, I am asking your support to adopt Federal legislation, so that the agreements can be executed and implemented.

Conclusion

I urge the adoption of the Federal legislation that was submitted as an attachment to the March 19 Letter to Congress from the seven Basin states.

Thank you for the opportunity to provide this testimony to the Subcommittee.

Mr. HUFFMAN. Thank you very much.

The Chair now recognizes Mr. Entsminger for 5 minutes.

**STATEMENT OF JOHN ENTSMINGER, GENERAL MANAGER,
SOUTHERN NEVADA WATER AUTHORITY, LAS VEGAS, NEVADA**

Mr. ENTSMINGER. Chairman Huffman, Ranking Member McClintock, members of the Subcommittee, my name is John Entsminger. I am the General Manager of the Southern Nevada Water Authority and Governor Sisolak's representative for the state of Nevada. Thank you for the opportunity to testify today on the Colorado River Drought Contingency Plans, also known as the DCP.

I am going to begin my comments by addressing two issues raised by the Imperial Irrigation District that may be on your minds. One, that IID was cut out of the DCP; and two, that less agricultural runoff will reach the Salton Sea as a result of the DCP.

Addressing the first, IID was not in any way cut out of the DCP. From very early on in the process that has now spanned approximately 6 years, IID's principals, lawyers, staff, and sometimes directors, were actively engaged in the development of the DCP. While IID professes support of the DCP throughout the process, IID's board never acted on or even put on an agenda the intrastate agreements and operational rules that comprise the DCP.

While each of the parties to the DCP would have preferred that IID participate from the outset as a signatory, the parties have now built an on-ramp for IID to participate fully in the event its position changes. Until it does so, however, IID's exclusion is self-imposed.

The DCP will not result in less water reaching the Salton Sea, and, consequently, the assertion that the DCP will exacerbate the very real public health concerns affecting the sea and its surrounding communities is erroneous. The DCP package forwarded to Congress by the seven Basin states will neither impact the amount of water reaching the Sea, nor the Sea's environment.

Furthermore, if at any time IID elects to participate based on previously approved intrastate agreements, IID's 250,000 acre-feet of contributions will be comprised of water that is already conserved in Lake Mead or with the Metropolitan Water District.

I want to be clear. The seven states want IID to rejoin the DCP. Our decision to move forward was made out of necessity, not out of animosity.

Nevada has responded to the drought with an aggressive conservation campaign, large-scale infrastructure improvements, and contributions to basin-wide initiatives designed to help mitigate the impacts of drought. We have invested more than \$250 million in conservation programs that have reduced our consumptive use of Colorado River water by 26 percent during the same time period

our population increased by 43 percent. We have spent nearly \$1.5 billion on new facilities designed to protect our communities' access to Colorado River supplies without any funding from the Federal Government.

The seven states have chosen to take actions that comprise the DCP voluntarily, because not one of us can bear the burden alone. It is our responsibility to nurture this river that sustains our community. The future of the American Southwest depends upon it.

Thank you for your time. I will be happy to answer any questions.

[The prepared statement of Mr. Entsminger follows:]

PREPARED STATEMENT OF JOHN J. ENTSMINGER, GENERAL MANAGER, SOUTHERN NEVADA WATER AUTHORITY; GOVERNORS' REPRESENTATIVE, STATE OF NEVADA

Chairman Huffman, Congressman McClintock, and members of the Subcommittee, my name is John Entsminger. I am the General Manager of the Southern Nevada Water Authority and Governor Sisolak's representative for the state of Nevada. Thank you for the opportunity to testify today on the Colorado River Drought Contingency Plans, also known as the DCP.

The Southern Nevada Water Authority (SNWA) serves 2.2 million people in Southern Nevada—more than 70 percent of our state's total population. We are dependent on the Colorado River for 90 percent of our municipal water supply. As the only major metropolitan city located on banks of the river, our community is highly aware that bold action is required—both inside our community and beyond the borders of our state—to respond to severe and sustained drought conditions affecting much of the American Southwest.

Today I urge congressional authorization be given to the Secretary of the Interior for implementation of the DCP, led by the seven basin states that share the Colorado River. This is a final step in a long and sometimes arduous process that has come about through collaboration and compromise among the river's many stakeholders. The authorization, which directs the Secretary to follow the Drought Contingency Plan that we have developed, is vital to protecting the populations and economies served by this river.

THE ROLE OF THE RIVER

The importance of the Colorado River cannot be overstated. This river is inarguably the most vital waterway in the West, sustaining the life and livelihood of seven western states and two countries located within some of the hottest and driest reaches of North America. The river supports the municipal water needs of approximately 40 million people in the United States and Mexico, including the states of Wyoming, Colorado, Utah, New Mexico, Arizona, Nevada and California, as well as 22 federally recognized tribes. The river irrigates 5.5 million acres of agricultural lands; supports the production of hydropower for much of the West; sustains 22 National Wildlife Refuges, Recreation areas and National Parks; and serves as an essential water supply for countless plant and animal species located within the Colorado River Basin, including at least seven that are threatened or endangered.

Historical context is useful to understand and appreciate the scale, magnitude and importance of the DCP, as well as the achievement it represents for the seven states that share this critical resource. The Colorado River's history is like the river itself—long, often turbulent and full of many unpredictable turns. It is governed by a series of contracts, regulatory guidelines, Federal laws, compacts, court decisions, decrees and a treaty with Mexico—collectively known as the "Law of the River." The 1922 Colorado River Compact divided the Colorado River Basin into two distinct divisions—the Upper Basin and the Lower Basin, allocating 7.5 million acre-feet per year (MAFY) to each. The 1928 Boulder Canyon Project Act and the 1948 Upper Colorado River Compact further divided the river among the Lower Basin states of Nevada, California and Arizona, and the Upper Basin states of Wyoming, Colorado, Utah and New Mexico, respectively. The Law of the River also recognizes Mexico's right to the river's flows and 1.5 MAFY was granted to Mexico through an international treaty between the United States and Mexico in 1944.

CURRENT CONDITIONS AND FUTURE OUTLOOK

Over the last century, the flows of the river have ranged from a high of 26 MAFY in 1909 to a low of 4 MAFY in 2002. As chance would have it, the Colorado River Compact was negotiated during the wettest period in the river's recorded history. At that time, the river's flow was estimated at 18 MAFY. More recent modeling indicates an average flow of 14.8 MAFY. Meanwhile, current allocations in the United States and Mexico total 16.5 MAFY, excluding evaporation losses in the Lower Basin. Consequently, the sum of the actual compact apportionments and evaporation exceed the flow of the river in most years.

The challenges of this over-appropriation have been magnified by severe and sustained drought conditions in the Colorado River Basin. Between 2000 and 2018, overall snowfall and runoff into the basin were well below normal, representing the lowest 19-year average on record. These conditions quickly developed into the worst drought in the basin's recorded history and have resulted in significant water level declines in major system reservoirs.

Lakes Mead and Powell, formed by the construction of Hoover Dam in the mid-1930s and Glen Canyon Dam in the early 1960s, were designed in part to protect the states from such conditions—storing water in wet years for use when its dry. When full, these two reservoirs can hold approximately 50 million acre-feet of water, the equivalent of more than 3 years of supply for the seven Colorado River Basin states combined. Wet years, however, have been few over the last 20 years and these critical reservoirs are now 60 percent below their combined storage capacity. As a result, our supply buffer has been reduced by more than 8.6 trillion gallons of water.

Today's water planners can do something the river's early compact negotiators could not—we can glance back, beyond the historical record, and peer forward at possible future outcomes using complex modeling. Tree ring studies have provided insight to the paleorecord, a time before formal recordkeeping began. These studies indicate the river has endured much longer droughts than we are experiencing today. Likewise, modeling using probabilistic tools and climate change assumptions provide insight to our future and indicate the hydrology of the 21st century is markedly different than the hydrology of the past.

Multiple forward-looking studies over the years—including the U.S. Bureau of Reclamation's 2012 Colorado River Basin Water Supply and Demand Study, and the 2018 National Climate Assessment—indicate that the challenges we face today are likely to follow us well into the future. These challenges include: rising temperatures; changes to precipitation patterns; reduced snowpack and runoff to rivers, lakes and streams; drastic decreases to critical storage reserves; dry soil conditions and increased occurrence of wildfires; and the encroachment of non-native species. Likewise, drought conditions are expected to become more frequent, intense and longer. Stakeholders on the river have continued to advance discussions on how to resolve long-term supply and demand challenges facing the system. However, the bulk of our efforts have focused on more immediate needs, both locally and regionally. We are working diligently to protect our critical water and power infrastructure, and water supply access in light of worsening drought conditions.

The drought, our recent experience and information brought about by research, studies and probabilistic modeling tools have fundamentally changed our collective understanding of the river. They have also given us a valuable opportunity—the ability to plan for the best possible outcome amid an increasingly formidable forecast.

COLLABORATIVE SOLUTIONS OVER CONFLICT

It is well known that conflict is synonymous with this river, even in the best of times. But so too is collaboration, even in the worst. The challenges we have faced as a river community have been daunting, both in their magnitude and complexity. With so many stakeholders and so many needs to be met, the solutions are often complicated and slow to materialize. Developing new tools that respect and uphold the old rules that govern the river takes time, patience, persistence and a willingness to compromise.

The pace of progress is often slow, but extraordinary and beneficial change has come about by our willingness to work together. This approach has proactively and incrementally addressed evolving issues, providing water users greater and timelier certainty than would be possible through litigation. The seven states of the Colorado River have come together time and again since before the drought began, and in the years since, embarking on negotiations for improved flexibility and management of the river.

Our first major accomplishments in the late 1990s centered on ways to work across state lines to store unused supplies and divvy up surplus Colorado River flows. Despite our early challenges to agree and reluctance, at times, to give, we ushered in creative solutions that satisfied us all. By the turn of the 21st century, we had developed familiarity of the issues, concerns and perspectives of our Upper and Lower Basin partners, and formed new foundations that led to historic changes on the river, including implementation of new rules for interstate water banking and the 2001 Interim Surplus Guidelines.

As drought took hold on the West, the prospect of surplus Colorado River flows began to diminish, and the Secretary of the Interior initiated a process in cooperation with the states to explore management of Lakes Mead and Powell under shortage conditions. Difficult and challenging negotiations ensued, and once again the states rose to the challenges with the Seven States Agreement, a unified decision for how shortages would be shared among Lower Basin water users. This work was the subject of an in-depth environmental review which included an analysis of the additional reductions in water use that are now reflected in the Lower Basin DCP. This comprehensive effort supported the Secretary of the Interior's 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines).

To date, a shortage has never been declared by the Secretary of the Interior, but future declarations are imminent and will be based on a projection of Lake Mead water levels as determined by the U.S. Bureau of Reclamation's Colorado River modeling efforts. The forecast is reviewed annually in August; if Lake Mead is forecasted to be at or below 1,075 feet on January 1 of the following year, a shortage declaration will be made. Under a shortage declaration, the amount of Colorado River water available for use by the states of Nevada and Arizona will be reduced as shown in Figure 1. California's share of shortage will be borne by Arizona in accordance with the Colorado River Basin Project Act.

Figure 1 – 2007 Interim Guidelines Shortage (in acre-feet).

Lake Mead Water Level	Nevada Shortage	Arizona Shortage
1,075 – 1,050 Feet	13,000	320,000
1,050 – 1,025 Feet	17,000	400,000
Below 1,025 Feet	20,000	480,000
	RECONSULTATION	

NEVADA'S RESPONSE TO DROUGHT

Nevada is entitled to 300,000 acre-feet of Colorado River water annually, just 1.8 percent of the river's allocated flow. SNWA, serving the greater Las Vegas Valley and Nevada's largest population center, has contracts with the Secretary of the Interior for nearly all of the state's allocation. For our community, the Colorado River is our largest and most critical water supply.

Drought in the Colorado River Basin pose two challenges for SNWA and our community: possible reduction of Colorado River supplies associated with a federally imposed shortage declaration and challenges associated with continued operations of our intake and pumping facilities, which draw our Colorado River allocation from Lake Mead, during low lake level conditions. To offset risks, Southern Nevada responded with an aggressive conservation campaign, large-scale infrastructure improvements, water banking efforts, and contributions to basin-wide initiatives designed to help mitigate the impacts of drought. Key efforts are described below.

- We took quick and coordinated actions in 2002 to implement policies and programs designed to improve water efficiency and reduce water use in Southern Nevada. Today, SNWA operates one of the largest and most comprehensive water conservation programs in the Nation. We have invested more than \$250 million in education and water conservation incentive programs that have reduced our consumptive use of Colorado River water by as much as 100,000 acre-feet annually, despite the addition of more than 660,000 new residents.
- We constructed a new raw water intake and initiated construction of new pumping facilities, representing a near \$1.5 billion investment, to ensure our continued access to Colorado River resources. These efforts are based, in part,

on the recommendation of a citizen’s advisory committee, which recognized the significant risk that Lake Mead could drop below and elevation of 1,000 feet, rendering our intake and pumping facilities inoperable and severing our access to Colorado River supplies. The new intake and pumping facilities will preserve our existing capacity to a Lake Mead elevation of 875 feet. The new intake is operational, and the new low-lake level pumping station is expected to become operational next year.

- Through Intentionally Created Surplus (ICS) established in the 2007 Interim Guidelines and interstate banking agreements with the states of Arizona and California and the U.S. Bureau of Reclamation, SNWA is able to store more than 200,000 acre-feet of water annually through on- and off-stream storage and recovery programs. Likewise, SNWA can store or “bank” water locally through the Southern Nevada Water Bank. To date, we have banked more than 1.8 million acre-feet of water through our water banking initiatives, nearly eight times Southern Nevada’s 2017 Colorado River consumptive use. With continued emphasis on water conservation, we anticipate banking our conserved Colorado River resources, either under existing agreements or through new ICS accounting as proposed under the DCP. The latter is preferred to help proactively manage reservoir elevations by increasing water storage in Lake Mead.

Our community’s sustained conservation response and adaptive management efforts have helped to avoid crisis in Southern Nevada. As a first responder, we are heartened to see similar efforts being undertaken by our partners along the river. Like Southern Nevada, many communities throughout the basin are developing and implementing aggressive water conservation programs, proving it’s possible to decouple economic growth from water use.

BASIN-WIDE DROUGHT RESPONSE

Regionally, the seven states have worked with Federal partners and Mexico since 2007 to augment Colorado River water supplies, improve system efficiency, and protect power generation and access to water supplies. These efforts range from contributing funds to a cloud seeding program designed to increase the potential yield of snowfall in the Colorado River Basin, to system efficiency and conservation efforts that have mutual benefit to Colorado River Basin water users.

SNWA has joined other stakeholders in numerous agreements designed to help mitigate the impact of ongoing drought and bolster reservoir elevations. These efforts are intended to protect against critical reservoir elevations that threaten hydropower generation at Glen Canyon and Hoover Dams, and preserve access to water supplies for millions of Lower Basin water users.

These collaborative efforts among the states, Federal partners and other Colorado River stakeholders have reduced Lake Mead’s water level decline by more than 30 feet.

Key basin-wide drought response efforts include:

- The 2007 Interim Guidelines, supported by the 2007 Colorado River Seven States Agreement, created a mechanism for the storage and recovery of ICS to encourage efficient use of Colorado River supplies, increase storage in major system reservoirs, increase surface water elevations in Lake Mead, and help to minimize or avoid the potential for declared shortages. More than 1.26 million acre-feet of ICS is stored in Lake Mead today.
- The U.S. Department of the Interior worked with project partners to fund budgeted costs of \$172 million for construction of the Warren H. Brock Reservoir, an ICS project developed on the border between the United States and Mexico to improve system efficiency by conserving water ordered but not taken by Lower Basin contract holders.
- Signed in 2012 and 2017, respectively, Minute 319 and Minute 323 of the Mexican Water Treaty allows Mexico to store water in Lake Mead to buffer against shortages and provide environmental flows, access additional water when reservoir conditions are favorable, and reduce its entitlement during a shortage declaration. As part of Minute 323, Mexico committed to a Water Scarcity Plan (WSCP), which would add to the DCP storage contributions made by the Lower Basin states to mitigate against declining reservoir elevations in Lake Mead. Implementation is effective through 2026 and contingent upon finalization of the Lower Basin Drought Contingency Plan.
- The U.S. Bureau of Reclamation, philanthropic organizations and Colorado River water users committed to fund up to \$36 million between 2015 and

2019 as part of a Pilot System Conservation Agreement for conservation projects that benefit the Colorado River system. Project partners evaluate and select projects, and compensate users for voluntary water use reductions. Resources created through reductions cannot be recovered by any individual water user. To date 170,000 acre-feet of water has been created and stored in Lake Mead.

- As an early precursor to the DCP, the U.S. Department of the Interior and Lower Basin water users and states set a goal of developing 1.5 to 3.0 million acre-feet of water in Lake Mead before 2020 to serve as a “protection volume.” As part of the agreement, parties agreed to use their best efforts to create a total of 740,000 acre-feet of protection volume between 2014 and 2017. This goal was achieved.

Despite these efforts, the risk of reaching critical levels at Lake Mead have increased substantially since the 2007 Interim Guidelines were approved and implemented.

A GRIM FORECAST FOR FUTURE CONDITIONS

Modeling by the U.S. Bureau of Reclamation suggests a 69–82 percent probability of shortage in the next 5 years, assuming the hydrologic conditions of the last 100 years prevail. Frankly, these assumptions are optimistic given the realities of climate change. “Stress test” modeling using the same hydrology we’ve most recently experienced indicates a 45 percent probability Lake Mead could drop below 1,020 feet in less than a decade. At this elevation, we will hover just above the point at which the river can no longer deliver to downstream water users and power production is severely compromised. This is a worst-case scenario.

As shown in Figures 2 and 3, implementation of the DCP will substantially reduce the risk of Lake Mead reaching a critical elevation of 1,020 feet.

Figure 2: Probability of Lake Mead Reaching < 1,020 Feet (Full Hydrology).

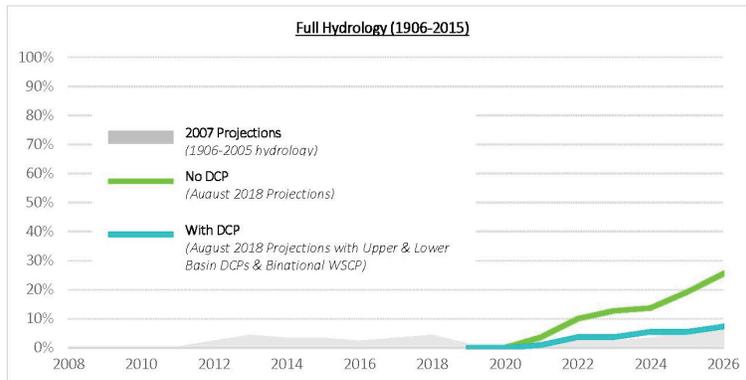
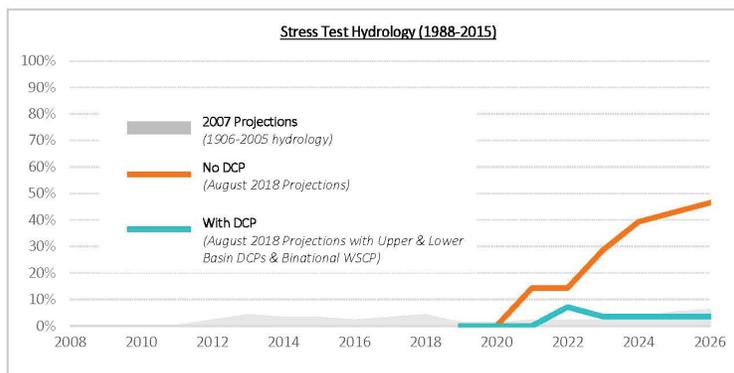


Figure 3: Probability of Lake Mead Reaching < 1,020 Feet (Stress Test Hydrology).



Precipitation and snowfall in the Colorado River Basin have improved for 2019, with heavy snows in the Rocky Mountains, which feed the river system. We could choose to be optimistic, but history, experience and recordkeeping cautions us to remember that even with normal inflow—which we have not seen regularly in decades—Lake Mead water levels will continue to decline. This current drought has seen 4 years with above average inflow to Lake Powell. Yet only one of those years (2011) provided temporary relief to the declining trend in Lake Mead’s elevation. The years following that temporary reprieve (2012 and 2013) were two of the driest back to back years on record. It would likely take decades of above-average inflows into the system to recover the storage we have lost over the last 20 years. While I remain hopeful that conditions will cause us to once again open the spillways of Hoover Dam as we did in the late 1990s, it would be ignorant to plan for anything more than our current reality.

NEXT STEPS—DCP

The Basin states have worked for many years now to develop a plan that will provide greater surety for local and regional water supplies within the Colorado River Basin, and avoid catastrophic disruption to the people, economies and environments dependent upon the river. This has been a challenging exercise. There have been many bumps in the road, but we are proud of the agreements before you today.

The DCP works with and builds upon current operational guidelines by slowing Lake Mead’s water level decline as critical elevations approach and by incentivizing water storage in system reservoirs. It more than doubles delivery reductions of the 2007 Guidelines below the 1,025-foot elevation threshold and brings more parties to the table to share in voluntary reductions (Figure 4). Further, the DCP underscores the interdependent nature of the river’s users and the need to share impacts. Mexico, recognizing the aggressive actions being taken in the United States, has already committed to share in these voluntary reductions. Although California is not required to participate in federally imposed reductions under the 2007 Interim Guidelines, California will share in voluntary reductions under the DCP.

Figure 4. Lower Basin and Mexico DCP Contributions.

LAKE MEAD ELEVATION	ARIZONA	NEVADA	CALIFORNIA	MEXICO	
	DCP Contribution	DCP Contribution	DCP Contribution	Minute 323 Delivery Reduction	Binational Water Scarcity Contingency Plan
1090'	192,000	8,000	-	-	41,000
1075'	192,000	8,000	-	50,000	30,000
1050'	192,000	8,000	-	70,000	34,000
1045'	240,000	10,000	200,000	70,000	76,000
1040'	240,000	10,000	250,000	70,000	84,000
1035'	240,000	10,000	300,000	70,000	92,000
1030'	240,000	10,000	350,000	70,000	101,000
1025'	240,000	10,000	350,000	125,000	150,000

All volumes are shown in acre-feet. The United States Bureau of Reclamation commits 100,000 acre-feet at each trigger elevation.

As difficult as these agreements have been at times to navigate, they represent a historic achievement—individuals, states, tribes, and nations working together, respecting each state’s legal interpretations, and crafting common-sense compromises to proactively solve challenges presented by an uncertain future.

The Upper and Lower Basin plans are complementary and work together to achieve greater results in protecting system reservoirs. As the reservoirs decline, the additional water flowing to Lake Powell and the reduced demands from Lake Mead produce higher reservoir elevations than when implemented one basin at a time.

The DCP does not solve the totality of issues facing the Colorado River, but it is a bold step and a solid foundation for our collective future. I would be remiss not to acknowledge that there are real and related issues facing our communities, including the challenges of the Salton Sea. This is an important and pressing matter. It is an issue that has lingered too long, and the states agree that it must be resolved. But this current drought and the DCP actions that the states have presented to secure the water supply of the Southwest are not the cause of the Salton Sea’s plight, nor will they exacerbate the situation in any way when implemented. Like our cities, the Salton Sea cannot count upon water from the river if the river fails. As such, it is within our collective best interest to protect Lake Mead from continued water level declines with the mechanisms agreed to by the states under the DCP.

VOLUNTARY CONTRIBUTIONS WITH BROAD SUPPORT

Despite our celebrations for a strong snowpack this winter, we have little reason to believe that the worst of this drought is behind us. In fact, all indicators point to the contrary.

The shortage amounts prescribed by the 2007 Interim Guidelines are not enough to protect our communities against reservoir declines if dry conditions continue as we expect they will. Our fields, faucets, families and our strong economies are at grave risk if Lake Mead drops below critical elevations. The states that share the Colorado River recognize this; we recognize also our joint responsibility to protect this fragile system.

Once again, we have worked within the laws that govern this river it to find flexible solutions. Once again, we have chosen collaboration over conflict. Once again, we have moved slowly and deliberately and delicately to ensure that every voice at the table is heard, considered, weighed and recognized. And, once again we have found compromise.

A CALL TO ACTION

On March 19, 2019, the seven Colorado River Basin states finalized and formally submitted the DCP to Congress. Today we seek your support for immediate implementation of our carefully laid plans. Simply put, the DCP needs to be authorized and executed by all parties in time to coordinate with Mexico on its contributions and to ensure that its elements are incorporated into 2020 water operations. This is imperative to ensure that the full range of conservation actions are implemented as soon as possible, which significantly minimizes the risk of Lakes Mead and Powell falling to critically low levels.

We have come to this table voluntarily and with broad support from the states, environmental community, and nearly all other Colorado River stakeholders. We believe implementation of the DCP will resolve future conflict and reduce the risks we face as individual states and as the river community. The future of the American Southwest is dependent upon sustainable water supplies that are used efficiently and conjunctively managed. Your actions will support these efforts and help to secure the future of more than the 40 million people. Taking less water today will give us greater surety that this river will continue to serve us tomorrow.

I thank you for the opportunity to share my thoughts and look forwarding to answering any questions you may have.

Mr. HUFFMAN. Thank you very much.
The Chair now recognizes Mr. Eklund for 5 minutes.

**STATEMENT OF JAMES EKLUND, COLORADO COMMISSIONER,
UPPER COLORADO RIVER COMMISSION, DENVER, COLORADO**

Mr. EKLUND. Chairman Huffman, Ranking Member McClintock, and members of the Subcommittee, my name is James Eklund, and I am Colorado Governor Polis' Colorado River representative, and an attorney at the law firm of Squire Patton Boggs in Denver.

I won't repeat what others have said. Colorado supports the Contingency Plans and the important accompanying legislation. I am here because water stress in the Colorado River Basin has been exacerbated by climate change, while our reliance on a healthy river system has only increased. We began to see these effects nearly two decades ago when we learned that the bottom can fall out from underneath this system over the course of only a few short years.

So, don't be misled by the snowpack, the excellent snowpack we have received so far this year. It only demonstrates the wide swings we have to manage moving forward. You can put an ice cube, even an excellent ice cube, in a hot cup of coffee, but eventually it is going to disappear.

But for the 40 million people who depend on this river, it is not an abstraction. This hardest working of American rivers is very real to us. And this is personal. I am a fifth-generation Coloradan from the western slope of our state. My great, great grandparents homesteaded our family's cattle ranch on a Colorado River tributary in 1888 on Ute tribal lands. Today, my parents, Larry and Celia—hi, Mom—run our cow-calf operation and still educate me on water, the Colorado River, and, fortunately, about everything else. Meanwhile, my amazing wife Sara and three wonderful children drink Colorado River water clear across the Continental Divide in Denver.

Water truly binds our state together. You will find the vast majority of our water on one side of the Continental Divide, and you will find the vast majority of our population on the other side of that divide.

All of our major rivers run out of our state to 18 downstream states and Mexico. The only other state with this dynamic that I know of is Hawaii. So, when it comes to water, working together is baked into Colorado's DNA. And I am happy to say collaboration is alive and well, as you can see from this panel, and the DNA of the Colorado River Basin as a whole.

Working together across Basin divides from Upper to Lower Basin states, rural and urban interests, and across water sectors, we have developed sound tools for protecting the health of the Colorado River system in the face of historically dry conditions. And we have done all this without infringing on the water rights of those who rely on this river or on the environment. Quite the opposite. A healthy system is critical to environmental flows that are part of Colorado's brand and security for water users that power our economy.

So, why now? Well, the urgency is real because our system is stressed by warming temperatures. When water resources are stressed in any river basin, our environments and people in poverty often bear a disproportionate amount of the pain. We know this to be true nationally and globally. You see red on some of the maps that are flipping through here, directly over our Basin.

If you act now—I sound like an infomercial—but if you act now, we will be able to incent the storage of water in Lake Mead. So, you get water in Lake Mead, you get water in Lake Powell, you get the benefits to the environment, and you act on climate.

Mr. HUFFMAN. But no steak knives?

Mr. EKLUND. Well, that is coming. That is coming. And operators are standing by. But we really need you to act now in order for us to control our own destiny.

The DCP provides Colorado and the Upper Basin with two tools we believe necessary to successfully avoid or mitigate a crisis at Lake Powell. One, we strategically manage releases from reservoirs that sit above Lake Powell; and two, we provide storage space in Lake Powell for water we conserve under demand management.

If we don't act, there is currently no such incentive. So, to be clear, when I say demand management, that is just a five-dollar phrase for using less water and storing it in Lake Powell.

Importantly, these tools operate within the framework of and comply with existing environmental laws. It is business as usual, so to speak, for applicable Records of Decision and Biological Opinions under the National Environmental Policy Act and the Endangered Species Act.

Nor are we asking you to enlarge or add to the Secretary of the Interior's authority. Quite the opposite there. Any Upper Basin demand management program will be at the direction and under the control of the respective states implemented under state law.

While neither of these tools individually constitutes a panacea, modeling demonstrates that a combination of these actions can positively influence Colorado River operations and outcomes. The benefits are even greater when these Upper Basin efforts are coupled with the Lower Basin efforts.

Failure is not an option. Were the Colorado River system to fail, our efforts to preserve and protect landscapes, critical species, water quality, and other environmental resources that each of the Colorado River Basin states and the Nation depend on and value would be significantly compromised. So, do it for your grandkids, do it for the environment, do it for yourselves, but let's get this done.

Thank you very much.

[The prepared statement of Mr. Eklund follows:]

PREPARED STATEMENT OF JAMES EKLUND, GOVERNOR'S REPRESENTATIVE FOR THE
STATE OF COLORADO

INTRODUCTION

My name is James Eklund and I am the Governor of Colorado's appointed Colorado River representative. I am honored to present testimony on behalf of the state of Colorado on the Colorado River Drought Contingency Plan, or DCP. The DCP is a plan negotiated by representatives of the seven Basin states of Colorado, Arizona, California, New Mexico, Nevada, Utah, and Wyoming and the Federal Bureau of Reclamation to address the ongoing effects of water stress on the Colorado River Basin that have been exacerbated by climate change while our reliance on a healthy river system has increased. We began to see these effects nearly two decades ago and they have no end in sight notwithstanding an excellent snowpack so far this year.

The DCP is the latest example of the seven Basin states working together to achieve solutions to Colorado River challenges. Working together, we have developed a sound plan for protecting the storage in both Lake Powell and Lake Mead in the face of historic drought conditions and we have done so without infringing upon the water rights of those that rely on the Colorado River.

WATER STRESS IN THE COLORADO RIVER BASIN REQUIRES ACTION NOW

The urgency is real because our system is stressed. Last year's runoff into the Colorado River was the second lowest since 2000 but it is just one year in nearly two decades of reduced hydrology in the watershed. Lakes Powell and Mead, the two largest man-made reservoirs in the United States, could reach critically low levels as early as 2021 or 2022. A warming climate, exemplified by nearly 20 years of hot and dry conditions, has translated into reduced streamflows, earlier peak runoff, and more arid conditions in our critical watersheds. Meanwhile, our demand for water has hardened as the population continues to grow and as our valuable crops become thirstier longer due to hotter, drier conditions. When precious water resources are stressed in this manner, our environments and people in poverty often experience disproportionate pain.

The seven Basin states have drafted a series of agreements to implement the DCP. We purposefully structured the agreements to call for legislation directing the Secretary of the Interior to execute the agreements and to carry out their provisions after they have been executed by the non-Federal parties to the agreements. In addition to providing you with an explanation of the DCP, I am here today to request your support in passing this critical legislation as quickly as possible.

The seven Basin states formally addressed the risk of shortage to the Colorado River in 2007 with the adoption of the 2007 Interim Shortage Guidelines. The operating experience gained from the adoption of the 2007 Guidelines and emerging scientific information regarding the increasing flow variability of the Colorado River have compelled the Basin states, the Bureau of Reclamation, and the Republic of Mexico to seek to adopt more stringent water management programs aimed at mitigating the impacts of shortages on our economies and the environment.

Federal legislation is now needed to facilitate the implementation of the DCP, which will reduce the probability that Lakes Powell and Mead will decline to critically low elevations. The Basin states have provided language to Members of Congress that we believe is appropriate for the Federal legislation. It is our hope that Federal legislation can be finalized as soon as possible allowing the DCP agreements to be executed as written and implemented in 2019.

Given the urgent need for action, we are seeking your support for the legislation, so that the agreements can be executed and implemented as soon as the respective authorized officials and governing bodies in the Basin states have acted. Our goal is to have authorizing legislation in place such that the Basin states can execute the drought contingency plan agreements this year.

THE DCP

The DCP provides Colorado and the Upper Basin with two tools we believe necessary to successfully address a crisis: the Drought Response Operations Agreement and the Demand Management Storage Agreement. While neither of these agreements individually constitutes a panacea, modeling demonstrates that a combination of actions can positively influence Colorado River operations and outcomes.

When our environment, economies, and livelihoods are at risk, we can little afford delay. Were the Colorado River system to fail, our efforts to preserve and protect landscapes, critical species, water quality, and other environmental resources that

each of the Colorado River Basin states depend on and value would be compromised. In short, failure is not an option.

Drought Response Operations Agreement

The Drought Response Operations Agreement establishes a process to make operational adjustments or releases at the CRSPA Initial Units, within the framework of existing authorities, in order to help protect Lake Powell from reaching critical elevations. This tool allows us to move water stored to where it is needed.

The Drought Response Operations Agreement applies to the CRSPA Initial Units. The CRSPA Initial Units are Glen Canyon (Lake Powell), Flaming Gorge, Aspinall, and Navajo. This Agreement relies on available water supplies as needed to reduce the risk of Lake Powell dropping below the critical elevation of 3,525'. This elevation is essential to the health of the Colorado River system, its environment, its infrastructure, and compact rights and obligations.

This Agreement establishes a process to develop a drought response operations plan. That process begins when forecasts project Lake Powell elevations will reach elevation 3,525' or below. The process includes outreach to American Indian Nations, other stakeholders, as well as consultation with the Lower Division states (Arizona, California, and Nevada). The Agreement ensures all CRSPA Initial Units are considered given water availability, hydrology, resource conditions, and operational limitations. Any plan will contain sufficient flexibility to begin, end, or adjust operations as needed based on actual hydrologic conditions. The Agreement further provides for emergency actions if actual hydrology or actual operating experience demonstrate an imminent need to protect the target elevation at Lake Powell. Any final drought response operations plan will be submitted to the Secretary of the Interior for approval. Drought response operations will continue until the critical elevation is no longer at risk, and end only after each CRSPA Initial Unit has recovered any storage released under such operations.

Importantly, our drought response operations process fits within the framework of and complies with existing authorities. Project-specific criteria govern the operation of each CRSPA Initial Unit, including applicable records of decision and biological opinions to satisfy the requirements of the National Environmental Policy Act and the Endangered Species Act, the authorized purposes for each facility, as well as state water right systems and decrees. The Agreement explicitly commits to operating the CRSPA Initial Units with the maximum flexibility practicable consistent with those existing authorities in both the release of water and the later recovery of storage. Moreover, the Agreement expressly recognizes that it will operate within the framework set forth under existing records of decision and biological opinions for each facility.

Demand Management Storage Agreement

The Demand Management Storage Agreement allows the Secretary to make unfilled storage capacity at the CRSPA Initial Units available for use by the Upper Division states, through the Upper Colorado River Commission (UCRC), at no charge. Such storage capacity is available provided that the UCRC requests use of the storage capacity for the purpose of storing water conserved as part of an Upper Basin demand management program. The storage authorization does not expire.

By securing this storage authorization, the Upper Division states and the UCRC can effectively consider the feasibility of a demand management program. The storage authorization does not guarantee the development and implementation of a demand management program. Nor does it predetermine the type of any program that may be adopted in the future. However, implementing or even exploring such a demand management program would be pointless without this authorization to use unfilled storage capacity because any conserved water would otherwise be required to be released from Lake Powell under current operating rules.

The purpose of an Upper Basin demand management program will be to temporarily reduce consumptive uses in the Upper Basin or augment supplies with imported water, if needed in times of drought, to help assure continued compliance with Article III of the 1922 Compact without impairing the right to exercise existing water rights in the future. Any demand management program will be at the discretion and under the control of the respective states, implemented under state law. Moreover, the storage, release, or delivery of water pursuant to such a program is not a discretionary action of the Secretary of the Interior.

The Upper Basin has learned through investigating aspects of demand management that no demand management program is likely to conserve enough water in any single year to completely ensure continued compliance with the 1922 Compact during extended dry conditions. Therefore, an Upper Basin demand management program will require the ability to store conserved water over multiple years.

We must navigate and answer many outstanding questions in order to establish an Upper Basin demand management program. These questions go to the core of how much water such a program could yield and store and at what cost.

In addition to providing for storage, the Demand Management Storage Agreement sets forth the minimum framework under which the Upper Division states can access the authorized storage prior to 2026. If, after study and consultation, the UCRC determines that a demand management program is feasible, then it may develop and implement a program. A program can only be implemented if approved independently by each of the Upper Division states.

If a program is developed prior to 2026, upon verification of the conserved water in storage, the water will not be subject to release from Lake Powell through 2057 except upon the request of the UCRC for compact compliance purposes. The stored water cannot cause a different release than would otherwise occur under current operational rules. Any water stored must be water that would have been otherwise consumptively used but for conservation as part of a demand management program. The Agreement requires further consultation with the Lower Division states if more than 500,000 acre-feet of water will be stored and subjects the stored water to its proportionate share of evaporation losses. The stored water will be reduced in the event of a physical spill from Glen Canyon Dam and will be subject to annual verification and reporting. After 2026, any demand management program will be informed by and considered as part of the renegotiation of the 2007 operating rules.

TERM OF THE DCP

The DCP will be ready for signature by the parties upon the passage of the Federal legislation and would remain in effect until the 2007 Guidelines are terminated or expire at the end of 2025. The seven Basin states recognize that the DCP is neither a “silver bullet” nor a long-term solution to the ongoing drought in the Colorado River Basin. But these agreements provide a bridge to the plan that must be developed by the states to take effect after the 2007 Guidelines end. The state of Colorado is committed to begin working on that plan soon after the DCP becomes effective. I can assure you that the other Basin states share this commitment, as do I and my colleagues who serve as the designated representatives for each of the seven Basin states.

THE STATE OF COLORADO AND THE COLORADO RIVER

The state of Colorado and the Colorado River are inextricably linked. The Colorado River and approximately 70 percent of its flow originate in our state. While 80 percent of our precipitation falls in the Colorado River Basin, 90 percent of our population is located outside of the Basin. This has led to approximately 500,000 acre-feet of water moving from western Colorado to the eastern part of our state. As highlighted in Colorado’s Water Plan, our environment is a critical aspect of Colorado’s brand. It is difficult to overstate the importance of this water supply to the state’s environment and economy as well as those of the Ute Mountain Ute and Southern Ute tribes. East or west of the Continental Divide, whether located within the physical basin or outside it, the Colorado River ties Coloradans together. And that is saying something in a state that produces water that reaches 18 downstream states, two oceans, and the Republic of Mexico.

The basins in the Colorado River system constitute more than one-third the size of Colorado’s total geographic area. Originating in our north central mountains, the main stem of the Colorado River flows southwesterly and is met at Grand Junction by the Gunnison River before flowing west into Utah. The Yampa River and the White River move westward across the northwest quadrant of the state to the Utah border where they join the Green River, another tributary of the Colorado. The San Miguel River and the Dolores River begin near the southwestern corner of Colorado and travel north along the western border into Utah. The San Juan River and its tributaries collect the water in the southernmost regions west of the Continental Divide and flow into New Mexico and Utah. Importantly, the Upper San Juan River and its tributaries flow through two American Indian reservations in the southern portion of the basin—the Ute Mountain Ute Reservation and the Southern Ute Indian Reservation—both of which require a healthy Colorado River system.

CONCLUSION

The DCP agreements are the product of a collaborative effort by the seven Colorado River Basin states to address the ongoing drought in the Colorado River Basin. In the Upper Basin, the drought has created a very real risk of Lake Powell dropping to critical elevations that would result in significant negative con-

sequences. The DCP will help reduce this risk through the two tools of reservoir operations and demand management.

We structured the DCP to require the passage of Federal legislation in order to be effective. We request your support in adopting the legislation as soon as possible so that the DCP can be implemented this year for the health of the Colorado River system, its environment, and its people.

Thank you. I stand ready for any questions, comments, or observations you might have.

Mr. HUFFMAN. Thank you very much.
Mr. D'Antonio, you are recognized for 5 minutes.

**STATEMENT OF JOHN D'ANTONIO, NEW MEXICO STATE
ENGINEER, ALBUQUERQUE, NEW MEXICO**

Mr. D'ANTONIO. Good morning, Chairman Huffman, Ranking Member McClintock, and members of the Committee. My name is John D'Antonio. I am the New Mexico State Engineer and Governor's representative for the state of New Mexico on the Colorado River. Thank you for inviting me to testify before the Subcommittee today.

I am here with my fellow governors' representatives to urge you to support the seven states' request to pass Federal legislation allowing the Secretary of the Interior to sign and implement the seven states' Drought Contingency Plans, or DCPs, for the Colorado River.

Immediate action is necessary on the DCPs to more effectively combat the drought we have experienced the past 19 years. The DCPs are needed and appropriate tools developed by consensus between seven states to reduce the negative impacts of this continuing drought on cities, farmers, tribes, and the environment. The DCPs will be exercised within the constraints of existing environmental laws and regulations.

The DCPs are the culmination of the multi-year efforts of a large group of parties. The seven Basin states, the United States, and the Republic of Mexico have come together to ensure continued water supplies for over 40 million people. Each state and country is doing its part to keep water levels in Lake Powell and Lake Mead from dropping to dangerously low levels and would result in significant water shortages to the Lower Basin and the reduction, loss of hydropower, electrical generation for millions of people in the southwestern United States.

Specifically for New Mexico, the Upper Basin Drought Response Operations Agreement will help maintain the elevation of Lake Powell for hydropower generation, and the Demand Management Storage Agreement will help maintain river flows at Lee's Ferry for compliance with the 1922 Compact. By doing so, we will reduce the risk of power shortage for our citizens who get electricity from the Western Area Power Administration and the risk of water shortages for our users.

In the San Juan Basin, Navajo Reservoir is operated to provide water for two of our Indian tribes, a number of other water users, and to maintain endangered species flow in the river through New Mexico and Utah to Lake Powell. Its operations have reduced or eliminated the impacts of drought on the main stem of the San

Juan River. Navajo Reservoir operations provide endangered species compliance through the San Juan River Implementation Program for numerous water users, including the Navajo Nation and Jicarilla Apache Nation, also the San Juan-Chama Project, which is a transmountain diversion to the Rio Grande Basin.

Diversions of Colorado River Basin water to the Rio Grande Basin have significantly reduced the impacts of extended drought on portions of the Rio Grande. San Juan-Chama Project water is also a major component of both the Aamodt and Abeyta Indian water rights settlements.

And, finally, San Juan-Chama Project water is used by cities, farmers, and to the benefit of endangered species on the Rio Grande Basin. In 2018, the drought was so severe that without San Juan-Chama water flowing to the Rio Grande, the river would have been dry for several hundred miles.

When the 2007 Interim Guidelines were negotiated, the Department of the Interior performed an analysis pursuant to the National Environmental Policy Act and published Record of Decision. The DCP agreements are written to operate within the constraints of these Records of Decision, Biological Opinions, and endangered species flow recommendations.

Navajo Reservoir, which is in New Mexico, is managed in part to maintain sufficient flow in the San Juan River to help endangered fish all the way to Lake Powell on the Utah-Arizona border. Those efforts have been going on for several decades and will continue as the DCPs are implemented. More specifically, if Navajo Reservoir water is determined to be available for release under either of the two Upper Basin DCP agreements, releases of the water will be coordinated with the San Juan Recovery Implementation Program, in compliance with the applicable Record of Decision and flow recommendations.

Between 2015 and 2018, the Upper Division states, through the Upper Colorado River Commission, ran a system conservation pilot program to determine the feasibility of voluntary compensated conservation in the Upper Basin. That program was a precursor to the Demand Management Storage Program that is proposed as part of the Upper Basin DCP.

The Navajo Nation, through the Navajo Agricultural Products Industry, participated in the Upper Basin System Conservation Pilot Program in 2017 and 2018, and was the single largest contributor to water savings in the Upper Basin during these 2 years.

New Mexico has also engaged with the Jicarilla Apache Nation and the DCPs and several San Juan-Chama contractors, the San Juan Water Commission, power generation companies, The Nature Conservancy, and all participants of the San Juan Recovery Implementation Program as part of our outreach DCP efforts.

New Mexico is confident that these and others will continue to be important partners as the DCP moves forward. The state is urging Congress to have legislation in place by April 22 of this year.

I want to thank you for the opportunity to testify before you today, and I urge you to introduce and pass legislation to authorize the Secretary to sign and implement the DCPs without delay. Thank you.

[The prepared statement of Mr. D'Antonio follows:]

PREPARED STATEMENT OF JOHN R. D'ANTONIO, JR., NEW MEXICO STATE ENGINEER;
GOVERNOR'S REPRESENTATIVE FOR NEW MEXICO

Good morning Chairman Huffman, Ranking Member McClintock and members of the Committee. My name is John R. D'Antonio, Jr. I am the New Mexico State Engineer and the Governor's representative for the state of New Mexico on the Colorado River. Thank you for inviting me to testify before your Subcommittee today. I am here today with my fellow governors' representatives to urge you to support the seven states' request to pass Federal legislation allowing the Secretary of the Interior to sign and implement the Seven States' Drought Contingency Plans or DCPs for the Colorado River.

Immediate action is necessary on the DCPs to more effectively combat the drought that has been upon us for the past 19 years. The DCPs are needed and appropriate tools, developed by consensus between seven states, to reduce the negative impacts of this continuing drought on cities, farmers, tribes, and the environment. It is justified because the DCPs will be exercised within the constraints of existing environmental laws and regulations.

The DCPs are the culmination of the multi-year efforts of a large group of parties. Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, the United States, and the Republic of Mexico have come together to ensure continued water supplies for over 40 million people. Each of those states, each of those countries is doing its part to keep water levels in Lake Powell and Lake Mead from dropping to dangerously low levels that would result in significant water shortages in the Lower Basin and the reduction/loss of hydropower electrical generation for millions of people in the southwestern United States.

In 2017, representatives of the two countries completed negotiation of Minute 323 to the 1944 Mexican Water Treaty. Minute 323, in part, anticipated Mexico's participation in these drought efforts by holding water in Lake Mead, but Mexico's participation is entirely contingent upon the authorization of the Lower Basin DCP by U.S. Federal law. If the Federal legislation is enacted before April 22, 2019, Mexico could contribute water to Lake Mead storage in 2020. Should Federal Legislation be enacted after April 22, 2019, Mexico would not contribute to Lake Mead storage until 2021. On the domestic side, representatives of the seven states have been meeting for several years to negotiate and finalize the implementation documents that are attached to the seven Basin states' letter. Everyone compromised during the negotiations, but in the end, we feel those agreements are the best tools we can implement right now to help us all better manage the Colorado River system.

Specifically for New Mexico, the Upper Basin Drought Response Operations Agreement will help maintain the elevation of Lake Powell for hydropower generation and the Demand Management Storage Agreement will help maintain river flows at Lee's Ferry for compliance with the 1922 Compact. By doing so, we will reduce the risk of power shortage for our citizens who get electricity from the Western Area Power Administration and the risk of water shortages for our water users. New Mexico has been at the center of moderate to extreme drought for much of the last 19 years and our surface water supplies, which, even when normal, are still the lowest of the seven Basin states, have been stretched to the limit. We have learned the consequences of NOT being prepared for continued drought. The state and many of its water users have planned and implemented activities to temper the severity of the extended drought on our citizens, farms, and environment. Water from the San Juan Basin is a big part of those plans and the DCPs will reduce the likelihood of that water not being available in the future.

In the San Juan Basin, Navajo Reservoir is operated to provide water for two of our Indian tribes, and a number of other water users, and to maintain endangered species flows in the river through New Mexico and Utah to Lake Powell. Its operations have reduced or eliminated the impacts of drought on the mainstem of the San Juan River. Navajo Reservoir operations provide endangered species compliance, through the San Juan Recovery Implementation Program, for numerous water users including the Navajo Nation and the Jicarilla Apache Nation in the San Juan Basin, and the San Juan-Chama Project, a transmountain diversion to the Rio Grande Basin. Diversions of Colorado River Basin water to the Rio Grande Basin through the San Juan-Chama Project have significantly reduced the impacts of the extended drought on a portion of the Rio Grande. San Juan-Chama Project water is also a major component of both the *Aamodt* and *Abeyta* Indian Water Rights settlements. Finally, San Juan-Chama Project water is used by cities, farmers, and to benefit endangered species in the Rio Grande Basin. In 2018, the drought was so severe that, without San Juan-Chama water flowing in the Rio Grande, the river

would have been dry for several hundred miles. There was just no natural surface water flowing.

The Upper Basin elements of the DCP will reduce the likelihood that those New Mexico “planned” uses will be reduced or even stopped. Tree ring reconstructions tell us that historic extended droughts on the Colorado have lasted significantly longer than 20 years. That was even without global warming. Given the dire situation the seven states could face in the very near future, it is imperative you authorize the Federal legislation that will allow the Department of the Interior to implement the DCPs.

Those tools are necessary because, as climate change affects our planet more and more, the American Southwest is becoming hotter and drier. Twenty years ago, the Colorado Basin states negotiated guidelines for sharing **surplus** Colorado River water. Soon after, nature made it clear that they needed to worry about **shortages**. So, in the early 2000s, the states began negotiating a set of guidelines (2007 Interim Guidelines) to deal with drought on the system. Those guidelines were implemented in December 2007 and have guided operations of the Colorado River since that time. They have helped reduce the impacts of drought. But the dry conditions persisted and it became clear more was needed. So President Obama’s Interior Secretary, Sally Jewell, asked the seven states to come up with a refined plan. The DCPs are that plan. They are the next step in adapting to this drier reality.

When the 2007 Interim Guidelines were negotiated, the Department of the Interior performed an analysis pursuant to the National Environmental Policy Act (NEPA) and published a Record of Decision. This analysis and Record of Decision included specific review of each of the Initial Units created pursuant to the Colorado River Storage Project Act of 1956 (CRSP) (Powell, Navajo, the Aspinall Unit and Flaming Gorge). Individual Biological Opinions were prepared for each of those reservoirs. A number of scenarios were considered during the NEPA evaluation regarding water levels and releases for each of those reservoirs and potential environmental effects of those operations. The DCP agreements are written to operate within the constraints of these Records of Decision, Biological Opinions, and endangered species flow recommendations, where applicable. There are no unforeseen impacts of the DCPs because various reservoir levels and their environmental consequences have already been analyzed.

In addition, as you may know, until last year the environmental programs on the Colorado River were financed in part by revenues from hydropower out of Lake Powell. In fact, representatives from the four Upper Division states, water users, tribes, and NGOs were in Washington DC 2 weeks ago to meet with your individual staffers and Department of the Interior personnel to discuss program successes and the new need for funding through the appropriations process. Efforts to protect four endangered fish species in the Colorado River system have resulted in two of those species becoming candidates for downlisting from endangered to threatened: The Fish & Wildlife Service plans to publish a proposed downlisting for the humpback chub in May and one for the razorback sucker in late 2019. Navajo Reservoir, which is in New Mexico, is managed, in part, to maintain sufficient flow in the San Juan River to help the fish all the way to Lake Powell, on the Utah-Arizona border. Those efforts have been going on for several decades and will continue as the DCPs are implemented. More specifically, if Navajo Reservoir water is determined to be available for release under either of the two Upper Basin DCP agreements, releases of the water will be coordinated with the San Juan Recovery Implementation Program (San Juan RIP) in compliance with the applicable ROD and flow recommendations.

Between 2015 and 2018, the Upper Division states, through the Upper Colorado River Commission, ran a System Conservation Pilot Program to determine the feasibility of voluntary compensated conservation in the Upper Basin. That program was a precursor to the Demand Management Storage Program that is proposed as part of the Upper Basin DCP. The Navajo Nation, through the Navajo Agricultural Products Industry (NAPI) participated in the Upper Basin’s System Conservation Pilot Program in 2017 and 2018 and was the single largest contributor to water savings in the Upper Basin during those 2 years.

New Mexico has also engaged with the Jicarilla Apache Nation regarding the DCPs and Jicarilla Apache Nation staff has expressed interest in talking more about opportunities. In addition, state representatives engaged with several San Juan Chama contractors, the San Juan Water Commission, power generation companies, The Nature Conservancy (TNC), and all participants of the San Juan RIP as part of our outreach DCP efforts. TNC was a partner to the Upper Division states in the System Conservation Pilot Program. New Mexico is confident that the Jicarilla Apache Nation, the Navajo Nation, TNC and others will continue to be important partners as the DCPs move forward.

The 2007 Interim Guidelines expire at the end of 2025 (after preparation of Reclamation's Annual Operations Plan for 2026). The seven Basin states are set to begin renegotiation of those Guidelines by the end of 2020. Implementing the DCPs now will allow us to begin testing the new tools we have crafted as we begin renegotiation of the Guidelines. Thus, we can learn what works on the ground and what needs to be adjusted. Armed with this experience, we will be in a better position to improve the system going forward, while continuing to protect water rights owners, Native American tribes, endangered species, power generation and recreation.

The states are urging Congress to have legislation in place by April 22, 2019. Time is of the essence because, on August 1 of each year, the Bureau of Reclamation publishes its 24-month study for the Colorado River Basin, which includes projected elevations of Lake Powell and Lake Mead on January 1 of the following calendar year. River operations are based on that study. Under the Interim Guidelines, these projections determine the water release amounts from Lake Powell and Lake Mead in the coming year. Pursuant to existing laws and regulations, the Bureau has no flexibility in terms of when its study and determination occur and are published. While those projections can be amended later based on revisions to the hydrology, operations on a river system as complex as the Colorado cannot be turned around on a dime. Some will object that the hydrology for 2019 appears to be positive, with snowpack exceeding 100 percent of basin average in the Upper Basin. However, we have been in this situation before. 2011 was a remarkably wet year, and many thought that the drought on the Colorado might have subsided. It was followed by two exceptionally dry years in 2012 and 2013. One good year of hydrology does not reverse the dangerous course we are on. Now more than ever, it is vital that we give ourselves the tools to face the drier future.

I thank you for the opportunity to testify before you today and I urge you to introduce and pass legislation to authorize the Secretary to sign and implement the DCPs without delay.

Mr. HUFFMAN. Thank you very much.
The Chair now recognizes Mr. Millis for 5 minutes.

**STATEMENT OF ERIC MILLIS, DIRECTOR, UTAH DIVISION OF
WATER RESOURCES, SALT LAKE CITY, UTAH**

Mr. MILLIS. Thank you, and good morning, Chairman Huffman, Ranking Member McClintock, and members of the Subcommittee. Thank you again for allowing me to speak. I am Eric Millis. I am the Division Director for the Utah Division of Water Resources. I am also Utah's Commissioner for the Colorado River.

The Colorado River provides a significant amount of water to Utah, comprising 22 percent of the state's total water supply. This water is largely used by agriculture in the eastern part of the state, but it is also the principal supply for the Central Utah Project, which is a trans-basin diversion which conveys water to the Wasatch Front. That Wasatch Front area extends from roughly 70 miles north of Salt Lake City, to roughly 70 miles south, and this is where most of the state's population resides.

Central Utah Project water is used for municipal and industrial purposes in this rapidly growing population center. In the future, Utahns will rely on the Colorado River even more heavily as reserved water rights settlements with Native American tribes are implemented, industry and agriculture expand, and the state's rapid population growth likely continues.

For 19 years, the Colorado River Basin and the state of Utah have been in a severe drought, one of the worst in the past 1,200 years. Although Lakes Powell and Mead appear to be operating as designed through this dry period, both are at uncomfortably low levels. The unknown is whether this drought will continue in the

long term and thereby impact the river as a reliable source of water supply.

So, given the needs, which will only increase over time, protection of this water supply for Utah water users, as well as for all water users in the Basin, is essential. The Drought Contingency Plans that have recently been agreed to by the seven Colorado River Basin states will offer protection to us all. The protection afforded to Utah and to the other Upper Division states by the Drought Contingency Plans will enable these states to maintain compact compliance. This, then, protects the Upper Division states against involuntary curtailment of uses of Colorado River water.

Involuntary curtailment is undesirable because it would require farmers, businesses, municipalities, tribes, and other water users to cut back or cut off use of their Colorado River water. This would be financially devastating to these groups and to the communities in which they are located due to cuts in production or having to purchase expensive replacement water.

The Upper Basin Drought Contingency Plan also is aimed at protecting hydroelectric power generation at Glen Canyon Dam. Millions of customers throughout the West would be impacted by a reduction in hydropower generation. Additionally, such a reduction would cause a loss of power revenues. These revenues are critically important for the operation, repair, and replacement of Colorado River Storage Project facilities. The revenues also fund a number of critical environmental programs, such as the Endangered Fish Recovery Program and the Colorado River Salinity Control Program.

This year, we are looking forward to a closer to normal inflow into Lake Powell due to the excellent snowpack that we have received. This will help make up for some of the effects of the really bad last year that we had and make for a more somewhat comfortable situation with the reservoirs. It is hard to know, however, if this year will be just one more good year among so many bad ones. It is, therefore, wise to have a plan and implementable actions to help ensure that we can keep the system operating in a way that complies with the Law of the River and protects water users and the environment.

Utah wholeheartedly supports the Drought Contingency Plans, the benefits they will bring, and the straightforward legislation needed to implement those plans. Given the critical need, the benefits that will occur and the hardship that will be avoided, Utah asks Congress to pass the legislation required to make these Drought Contingency Plans a reality. Thank you.

[The prepared statement of Mr. Millis follows:]

PREPARED STATEMENT OF ERIC L. MILLIS, PE, COLORADO RIVER
COMMISSIONER FOR UTAH

Thank you, on behalf of the state of Utah, for allowing me to submit testimony regarding the Colorado River Drought Contingency Plan. Utah is one of the seven Colorado River Basin states. More specifically it is one of the four Upper Division states, along with Colorado, New Mexico and Wyoming.

The Colorado River provides a significant amount of water to Utah, comprising approximately 22 percent of the state's total water supply. This water is used largely by agriculture in the eastern part of the state but is also the supply for the Central Utah Project, a trans-basin diversion which conveys water to the Wasatch Front—a 30-mile-wide strip of land extending from 70 miles north of Salt Lake City

to 70 miles south where most of the state's population resides. Central Utah Project water is used for municipal and industrial purposes in this rapidly growing population center. In the future, Utahns will rely on the Colorado River even more heavily as reserved water rights settlements with Native American tribes are implemented, industry and agriculture expand, and the state's rapid population growth likely continues.

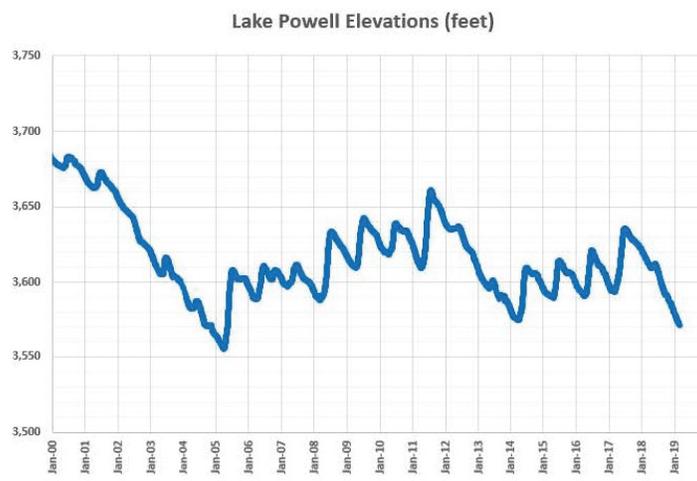
For 19 years, the Colorado River Basin and the state of Utah have been in a severe drought situation—one of the worst in the last 1,200 years. Although Lakes Powell and Mead appear to be operating as designed through this dry period, both are at uncomfortably low levels. The unknown is whether this drought will continue or if it is a result of climate change that may make a permanent impact on the river as a source of water supply.

Given needs, which will only increase over time, protection of this water supply for Utah water users is essential. The Drought Contingency Plans that have recently been agreed to by the seven Colorado River Basin states will offer protection not only to Utah but to the other states as well. The protection afforded Utah and the other Upper Division states by the drought contingency plans will enable these states to maintain Compact compliance. This then protects the Upper Division states against a Compact call, which would require involuntary curtailment of uses of Colorado River water in each Upper Division state.

Involuntary curtailment is undesirable because it would require farmers and other water users cut back or cut off use of their Colorado River water. This would be financially devastating to businesses, individuals and the communities in which they are located due to cuts in production or having to purchase expensive replacement water. Included in this would be potential reductions of supply to the Central Utah Project, which could also be required to purchase expensive replacement water or cutback on delivery.

The Upper Basin Drought Contingency Plan is aimed at protecting Upper Basin water supplies by keeping Lake Powell from falling below a specified critical elevation. If Lake Powell were to fall below this elevation (el 3525), hydroelectric power generation at Glen Canyon Dam would be reduced or could eventually be shut off altogether. Millions of customers throughout the West would be impacted by a reduction in hydropower generation. Additionally, such a reduction would cause a loss of power revenues. These revenues are critically important for the operation, repair and replacement of Colorado River Storage Project facilities. The revenues also fund a number of critical environmental programs such as the Upper Colorado River Endangered Fish Recovery Program and the Colorado River Salinity Control Program.

We are grateful for the excellent snowpack we have received this year in the mountains that feed the Colorado River. It is a marked change from last year when April 1 snow totals in Utah and in the Colorado River Basin were much lower than normal. In fact, the total rise in Lake Powell due to the runoff last year hardly made a bump on the graph (below—between Jan-18 and Jan-19) showing the water levels of the Lake. With the required releases from the Glen Canyon Dam, Lake Powell has dropped to within 10 feet of the lowest elevation it has seen since filling in the 1960s and 1970s. This graph shows the effects of the drought on the elevations of Lake Powell since 2000, when it was effectively full. There have been some good years such as 2005, 2008, 2011 and 2017, but most have been below average.



This year we are looking forward to near normal inflow into Lake Powell due to the excellent snowpack. This will help make up for the effects of the bad last year and bring us back to somewhat more comfortable lake elevations. It is hard to know, however, if this year will just be one more good year among so many bad ones. It is therefore wise to have a plan and implementable actions to help ensure we can keep the system operating in a way that complies with the Law of the River and protects water users.

Utah wholeheartedly supports the drought contingency plans, the benefits they will bring and the straightforward legislation needed to implement those plans. We have worked with the other Upper Division states on the Upper Basin Plan. We have reviewed the Lower Basin Plan and worked with the Lower Basin states as they have developed it. We also note that Mexico will implement measures similar to those of the Lower Basin states when the Lower Basin Plan is ready for implementation. While all three of these plans individually provide great benefit, working together there will be synergism which will create an overall result that is larger than the sum of its parts.

Given the critical need, the benefits that will occur and the hardship that will be avoided, Utah asks Congress to pass the legislation required to make these drought contingency plans a reality.

Mr. HUFFMAN. Thank you.

Last but not least, Mr. Tyrrell, you are recognized for 5 minutes.

**STATEMENT OF PAT TYRRELL, WYOMING STATE ENGINEER,
CHEYENNE, WYOMING**

Mr. TYRRELL. Thank you. Chairman Huffman, Ranking Member McClintock, and members of the Committee, I get to be the first person today to wish you a good afternoon. And I would like to thank Representative Cheney for the very kind introduction and get that thank you into the record.

My name is Pat Tyrrell, and I am the Wyoming State Engineer and the Wyoming Governor's representative on the Colorado River. I wish to express our state's support for the Drought Contingency Plans.

As you have heard, the Colorado River Basin has been experiencing severe drought since 2000, more severe than was considered

during the development of our 2007 Guidelines. We now know that those operating rules cannot sufficiently address one of the worst drought cycles ever seen.

The DCPs will provide the opportunity, a bridge, for the Basin states, Federal Government, and other key stakeholders to collaborate on a longer term set of sustainable solutions for managing the Colorado River until 2026, when those earlier guidelines are replaced.

The DCPs reduce the probability that both Lakes Powell and Mead will decline to critically low elevations, which could occur as early as 2021.

We see two paths to respond to severe drought in the short term. One is to watch it happen and risk unilateral secretarial action in the Lower Basin and dispassionate mandatory regulation of uses in the Upper Basin. The other way is to authorize the DCPs, which lay lighter on our water users and are a product of collaboration and consensus.

In either case, if drought continues, some water uses will be reduced. They must be. As a water manager, I feel compelled to offer my water users the second alternative, a drought plan developed which avoids heavy government intervention and mandatory curtailment. That is what the DCP presents. The Upper Basin cannot fail to satisfy the 1922 Compact's non-depletion obligation below Lake Powell.

Additionally, we have never had to implement the difficult curtailment provisions of the 1948 Upper Colorado River Basin Compact, but we know it would be difficult. The risk of under- or over-regulating is significant.

The first tool in our DCP in the Upper Basin is the Drought Response Operations about which you have heard. This agreement establishes a process where we can move stored water above Lake Powell, down to it, to protect critical elevations. If Lake Powell reaches critical elevations, the ability to release water is jeopardized. If we cannot get sufficient water out of that reservoir, we violate the 1922 Compact. If we cannot generate hydropower, many other needs and programs will be impacted.

Even without the agreement, the Bureau of Reclamation will move uncommitted storage from its upstream CRSP initial unit reservoirs to prevent that from happening.

The agreement provides a process for outreach to our stakeholders, and it requires recovery of those reservoirs.

Finally, as you have heard, we have committed that those operations and activities will occur under existing NEPA analyses, Records of Decisions, and other authorities.

Our second tool is the Demand Management Storage Agreement. Demand management would allow, as you have heard, the Upper Basin to store conserved water for later use, much as is done in the Lower Basin's ICS program. If a demand management program proves feasible, the temporary, voluntary reduction of existing use in the Upper Basin would provide us with an important tool to ensure compact compliance. With storage at no cost to the states, our program could be crafted with involvement of stakeholders.

The Colorado River Basin needs the DCPs implemented now. And I would ask the Committee to notice who is on the panel. We

have seven states here, and this Basin does its best when all of us sing from the same book. We need to get something done, which is why we are here today.

These plans were developed through years of collaboration with this group, compromise and consensus, and function with rigorous environmental analyses, review, and the permitting processes that have already been completed. The plans require the passage of Federal legislation to become effective. We request your support in adopting the legislation as soon as possible so that the plans can be implemented this year.

Thank you.

[The prepared statement of Mr. Tyrrell follows:]

PREPARED STATEMENT OF PATRICK TYRRELL, P.E., WYOMING STATE ENGINEER

INTRODUCTION

Chairman Huffman, Ranking Member McClintock, and members of the Subcommittee, my name is Patrick Tyrrell. I am the Wyoming State Engineer and the Wyoming Governor's representative regarding the Colorado River. Thank you for providing me the opportunity to present testimony on behalf of the state of Wyoming regarding the Colorado River Drought Contingency Plans (DCPs).

The Colorado River Basin needs the DCPs implemented now. The Basin has experienced 19 years of drought. Our current operating rules cannot sufficiently address one of the worst drought cycles over the past 1,200 plus years. The entire system faces a crisis that cannot be remedied by 1 or 2 good water years. Two countries, seven states, 40 million people, 5.5 million acres of irrigated agriculture, an economy of \$1.4 trillion dollars per year, and all that rely on the Colorado River need a plan. They all need a plan now.

We have developed a plan. The seven Colorado River Basin states, working with the Department of the Interior, have carefully developed a plan over the last 6 years. Our plan was built through collaboration and consensus and represents a complex compromise which considers all of the potential impacts. Only through such collaboration and compromise are we able to fully achieve the flexibility and innovation found within the DCPs, while at the same time effectively respecting each state's rights under the Law of the River. Plans in the Lower Basin states of Arizona, California and Nevada have been drafted separately, but parallel to, plans drafted in the Upper Basin states of Colorado, New Mexico, Utah and Wyoming. These plans help protect critical reservoir elevations at Lakes Powell and Mead and provide a synergistic benefit to the entire River Basin when operating in tandem. They are now in front of you for consideration and authorization. Our plans are needed now.

The DCPs must be implemented without delay. The new operational flexibility created by the Lower Basin DCP will enable Lower Basin water contractors to put Intentionally Created Surplus into storage this year, rather than needing to draw it down, helping preserve the level of Lake Mead. Determinations regarding reservoir operations for water year 2020 will be made in August 2019. Timely implementation is important with regards to contributions by the Republic of Mexico. Those contributions are conditioned upon the effectiveness of the Lower Basin DCP and will require several months to effectuate, potentially precluding Mexico's participation in water year 2020 if the DCPs are not implemented by April 22, 2019. Moreover, implementation cannot begin until the agreements have been executed by all parties, which is predicated upon securing congressional legislation.

The DCPs will enhance existing water management tools and will address the looming water crisis in the near term, but they are only temporary. They will provide the opportunity—a bridge—for the Basin states, Federal Government and other key stakeholders to collaborate on a longer-term set of sustainable solutions for managing the Colorado River. We need that opportunity. Only by immediately enacting the proposed Federal legislation and implementing the DCPs will the plan work. The DCPs will reduce the probability that Lakes Powell and Mead will decline to critically low elevations—which could occur as early as 2021—and are the only plans which can adequately address the crisis in the short term.

My colleagues from the Lower Basin will describe the Lower Basin plan, and my testimony will focus on the Upper Basin plan. The Upper Basin DCP is designed to assure continued compliance with the 1922 Colorado River Compact (1922

Compact) and help protect critical elevations at Lake Powell. The states of Colorado, New Mexico, Utah and Wyoming developed the Upper Basin DCP along with the Department of the Interior and water users and other stakeholders in each state.

Upper Basin Drought Contingency Plan

Background

Water management and operations in the Upper Basin differ from those in the Lower Basin. These differences necessarily result in different kinds of drought planning tools than those proposed to be employed in the Lower Basin.

Unlike the Lower Basin, the Upper Basin entered into a Compact to divide its allocation made under the 1922 Compact. The 1948 Upper Colorado River Basin Compact (1948 Compact) not only divides the water between the states, it also establishes the Upper Colorado River Commission (UCRC). The UCRC is composed of commissioners representing each Upper Division state of Colorado, New Mexico, Utah and Wyoming, and a commissioner representing the United States. The 1948 Compact contains provisions regarding the mandatory curtailment of Upper Basin water uses if necessary to comply with obligations under the 1922 Compact. Most specifically, it contains provisions regarding curtailment to satisfy the Upper Basin's obligation not to deplete the flow of the Colorado River at Lee Ferry below 75 million acre-feet over a 10-year running average. The UCRC has the authority to make findings regarding the necessity for, the extent of, and the timing of curtailment. But the individual states determine how curtailment will be implemented within each state. While curtailment has never been necessary, diminishing Colorado River supplies have increased the risk the Upper Basin may need to curtail its uses in the future to satisfy its Compact obligation. And the risk of under- or over-curtailing is high.

There is no water master in the Upper Basin. Water right holders in the Upper Basin, including the Bureau of Reclamation, obtain the right to store and use water in accordance with state law in each state. There are thousands of individual Colorado River system water right holders in the Upper Basin, as compared to the relatively few water contractors and entitlement holders of mainstream Colorado River water in the Lower Basin. As such, any reductions in use require the involvement of a large number of users. This makes curtailment, or implementing any other method of reducing demands in the Upper Basin, a complicated endeavor.

The location of large reservoirs in relation to most Upper Basin water users is also different than in the Lower Basin. Reservoirs like Lake Powell lie downstream of water users. Therefore, any water conserved and stored in those large reservoirs cannot be called on later for use within the Upper Basin. Instead, that water becomes subject to the rules governing the coordinated operations of Lakes Powell and Mead and is ultimately released to the Lower Basin. If water conserved in the Upper Basin does not provide a benefit to the Upper Basin, there is little incentive to voluntarily conserve that water.

Even though it lies below Upper Basin water users, Lake Powell is critical to developing and utilizing the Upper Basin's Colorado River apportionment. It acts as the Upper Basin's savings account by storing water in wet years to assure the Upper Basin can meet its compact obligations in dry years. With the continuing dry conditions, that savings account has become more depleted thereby increasing the risk that Upper Basin uses will need to be curtailed for compact compliance.

Intended Goals of the Upper Basin DCP

The principle goal of the Upper Basin DCP is to help assure continued compliance with the 1922 Compact. It does so by protecting the critical elevations at Lake Powell. Protecting those elevations reduces the risk that the Upper Basin will fail to meet its compact obligations. Protecting Lake Powell elevations also reduces the risk that Upper Basin water users will see mandatory curtailment.

The Upper Basin DCP is also intended to maintain the ability to generate hydropower at Glen Canyon Dam. If Lake Powell reaches critical elevations, it could lose the ability to generate hydropower or even release sufficient water to comply with the 1922 Compact. Losing the ability to generate hydropower could interrupt electrical service to power customers, including municipalities, cooperatives, irrigation districts, Federal and state agencies and Native American tribes, and the continued functioning of the western Interconnected Bulk Electric System that extends from Mexico to Canada and from California to Kansas and Nebraska. In addition to losing a large clean power supply and soft start capability for western grid that allows power to be safely restored after blackouts, revenues from hydropower fund many important purposes, including:

- Repaying construction costs of Federal projects;

- Continued operation and maintenance of the Initial Units and participating projects authorized under the 1956 Colorado River Storage Project Act, as amended (“CRSPA”);
- Continued funding and implementation of environmental and other programs for compliance with the Endangered Species Act, the National Environmental Policy Act, and Grand Canyon protection legislation;
- Mitigating salinity in the Colorado River and its impacts; and
- Funding water projects within each Upper Division state.

Funding provided by hydropower generation not only provides these direct benefits, but also provides the Upper Basin the ability to develop and use its 1922 Compact apportionment. Without the benefits provided by hydropower funding, the ability for the Upper Basin to develop and use its compact apportionment faces increased risk.

To achieve these goals, the Upper Basin DCP as presented to you for authorization consists of two agreements: The Drought Response Operations Agreement¹ and the Demand Management Storage Agreement.²

Drought Response Operations Agreement

The Drought Response Operations Agreement establishes a process to make operational adjustments or releases at the CRSPA Initial Units, within existing authorities, in order to help protect Lake Powell from reaching critical elevations. Essentially, it’s a plan to move existing water supplies from where it is already stored to where it is needed.

The Drought Response Operations Agreement applies to the CRSPA Initial Units. The CRSPA Initial Units are Glen Canyon Dam, Flaming Gorge Dam, Curecanti (the “Aspinall Unit”), and Navajo Dam. The Agreement relies on available water supplies as needed to reduce the risk of Lake Powell dropping below the target elevation 3,525’. This target elevation appropriately balances the need to protect infrastructure, compact obligations, and operations at Glen Canyon Dam as storage approaches minimum power pool, with the Upper Division states’ rights to put Colorado River System water to beneficial use.

The Agreement establishes a process to develop a drought response operations plan. That process begins when forecasts project Lake Powell elevations will reach elevation 3,525’ or below. The process includes outreach with stakeholders, as well as consultation with the Lower Division states. The Agreement ensures all CRSPA Initial Units are considered given water availability, hydrology, resource conditions, and operational limitations. Any plan will contain sufficient flexibility to begin, end, or adjust operations as needed based on actual hydrologic conditions. The Agreement further provides for emergency actions if actual hydrology or actual operating experience demonstrate an imminent need to protect the target elevation at Lake Powell. Any final drought response operations plan will be submitted to the Secretary for approval. Drought response operations will continue until the target elevation is no longer at risk, and end only after each CRSPA Initial Unit has recovered any storage released under a plan.

Importantly, a drought response operations plan developed pursuant to the Agreement will comply with existing authorities. Project-specific criteria govern the operation of each CRSPA Initial Unit, including applicable Records of Decision and Biological Opinions to satisfy the requirements of the National Environmental Policy Act and the Endangered Species Act, the authorized purposes for each facility, as well as state water right systems and decrees. The Agreement explicitly commits to operating the CRSPA Initial Units with the maximum flexibility practicable consistent with those existing authorities in both the release of water and the later recovery of storage.

Drought response operations relying upon existing storage is a first line of defense to protect critical elevations at Lake Powell. But that existing storage is not infinite. If dry conditions persist or worsen, existing storage will diminish and the Upper Basin may need to reduce its uses to comply with the 1922 Compact and protect critical reservoir elevations. To avoid mandatory, dispassionate curtailment of existing uses, the Upper Basin is exploring the feasibility of a demand management program.

¹ Entitled “Agreement for Drought Response Operations at the Initial Units of the Colorado River Storage Project Act,” and attached as Attachment A1 to the Agreement Concerning Colorado River Drought Contingency Management and Operations.

² Entitled “Agreement Regarding Storage at Colorado River Storage Project Act Reservoirs Under an Upper Basin Demand Management Program,” and attached as Attachment A2 to the Agreement Concerning Colorado River Drought Contingency Management and Operations.

Demand Management Storage Agreement

Upon congressional approval, the Demand Management Storage Agreement authorizes the Secretary to make unfilled storage capacity at the CRSPA Initial Units available for use by the Upper Division states, through the UCRC, at no charge. Such storage capacity is available provided that the UCRC requests use of the storage capacity for the purpose of storing water conserved as part of an Upper Basin demand management program. The storage authorization does not expire.

By securing this storage authorization, the Upper Division states and the UCRC can effectively consider the feasibility of a demand management program. The storage authorization does not guarantee the development and implementation of a demand management program. Nor does it predetermine the type of any program that may be adopted in the future. However, without securing the authorization for storage capacity, investigation regarding the feasibility of such a program is likely unwarranted because any conserved water would be released to the Lower Basin under current operating rules.

The purpose of an Upper Basin demand management program will be to temporarily reduce consumptive uses in the Upper Basin or augment supplies with imported water, if needed in times of drought, to help assure continued compliance with Article III of the 1922 Compact and without impairing the right to exercise existing Upper Basin water rights in the future. Like mandatory curtailment, any demand management program will be a state-based effort implemented under state law. The Upper Basin has learned through investigating aspects of demand management that no demand management program is likely to conserve enough water in any single year to help assure continued compliance with the 1922 Compact during extended drought conditions. Therefore, an Upper Basin demand management program will require the ability to store conserved water over multiple years.

There are many outstanding issues that must be investigated before an Upper Basin demand management program can be established. Those issues include, among other things, determining transit losses that will occur by moving conserved water downstream to Lake Powell, securing sufficient demand management water volumes, measuring conserved consumptive use volumes, evaluating local impacts from non-use, ensuring delivery of conserved consumptive use volumes to the CRSPA Initial Units without diminishment by downstream diverters, and developing the expertise and resources necessary to administer such a program. These issues, as well as others, are complicated by the fact that a demand management program must work in all four Upper Division states where differing water laws apply. Funding is another significant issue. Considerable funding will be necessary to compensate water users for their voluntary participation in the program for conserving consumptive uses. Securing Federal storage space is crucial because if additional funding is necessary to pay for the storage of any conserved water, the program is likely infeasible.

In addition to authorizing storage, the Demand Management Storage Agreement sets forth the minimum framework under which the Upper Division states can access the authorized storage prior to 2026. If, after study, the UCRC determines that a demand management program is feasible, then it may develop and implement a program. A program can only be implemented if approved independently by each of the Upper Division states. The Upper Division states, through the UCRC, and the Secretary must enter into agreements on the methodology, process and documentation for verification and accounting for the creation, conveyance, and storage of conserved water. During the study and development of a program, and prior to entering any agreement, the UCRC and the Secretary must also consult with the Lower Division states.

If a program is developed prior to 2026, upon verification of the conserved water in storage, the water will not be subject to release from Lake Powell through 2057 except upon the request of the UCRC for compact compliance purposes. The stored water cannot cause a different release than would otherwise occur under current operational rules. Any water stored must be water that would have been otherwise consumptively used but for conservation as part of a demand management program. The Agreement provides a maximum combined storage limitation of 500,000 acre feet and subjects the stored water to its proportionate share of evaporation losses. The stored water will be reduced by a physical spill from Glen Canyon Dam and will be subject to annual verification and reporting. After 2026, any demand management program will be informed by and considered as part of the renegotiation of the current operating rules.

CONCLUSION

The Colorado River Basin needs the DCPs implemented now. The plans were developed through years of collaboration, compromise and consensus, and function within rigorous environmental analysis, review and permitting processes that have already been completed. They will enhance existing water management tools and will address the looming water crisis in the near term. The plans require the passage of Federal legislation to become effective. We request your support in adopting the legislation as soon as possible so that the plans can be implemented this year.

Thank you for the opportunity to testify here today. I am happy to answer any questions you may have.

Mr. HUFFMAN. All right. I want to thank the witnesses. I will now begin questions from Members.

Mr. Stanton, you are recognized for 5 minutes.

Mr. STANTON. Thank you very much. Mr. Chair, it is going to take a lot of great leadership to get this over the finish line. The Director from Arizona—or the Director of Water Resources, Tom Buschatzke—has done an incredible job bringing greatly diverse interests within the state of Arizona to get to this point. A great accomplishment.

Our leader, our dean of our delegation, the Chair of the Natural Resources Committee, Chairman Grijalva, who is going to get it over the finish line here within this body, within Congress, and he has brought together, obviously in a bipartisan way, all of Arizona leaders in this body are here in support, and then tribal leadership. Tribal leadership has been critically important to get the DCP to the point where it has. Governor Stephen Roe Lewis is here representing the Gila River Indian Community, and other tribal leaders are here in this room.

And, Director Buschatzke, I want to first ask you that question about tribal leadership. How are the tribes in Arizona impacted by the DCP? And maybe describe the role that our tribal leadership has played in developing the Arizona DCP implementation plan.

Mr. BUSCHATZKE. Thank you, Representative Stanton. First, the tribes in Arizona are impacted differently, depending on what tribe they are. The Gila River Indian Community has a priority of water that will be largely impacted by the Drought Contingency Plan, that tribe and nine cities within the state of Arizona. But the community will take 50 percent of the hits in that pool of water when those cuts reach that level, pursuant to the interstate DCP.

So, to help mitigate some of those impacts, we did create a steering committee in the state of Arizona with 35 or so members. The Tohono O'odham Nation, the Gila River Indian Community, and the Colorado Indian Tribes were directly represented on that steering committee that put together the inter-Arizona plan. Again, that plan involved lots of sacrifice for folks, but it also involved some amount of mitigation for those who were being impacted.

In terms of the other tribes in Arizona, when we put the steering committee together, the Bureau of Reclamation was one of the members, along with—I already mentioned in my statement—many of the members of the Committee as well. But the Bureau of Reclamation worked with us to make sure they did outreach to the other tribes in Arizona and held regular meetings in and around the steering committee meetings to get their feedback, to

bring that feedback forth to the steering committee. So, we had a very robust process. All of our steering committee meetings were open to the public. They were very well attended, and I think we came up with a really good plan in Arizona to deal with the impacts of the Drought Contingency Plan.

Mr. STANTON. I appreciate that very much. And I think all of us in Arizona owe another debt of gratitude to our tribal communities, our tribal leaders for willing to be such leaders in this effort and to be team players in the sacrifice for the greater good of the people of Arizona.

This is a short-term plan. It is a good plan, it is a solid plan, and it deserves our support, but it is not intended to be a long-term plan. And we in Congress should be thinking long term. So, Director Buschatzke, the second question I have is, what is next? What do you see as the next challenge or set of challenges on the river, and how can we in Congress be helpful to tackling it together?

Mr. BUSCHATZKE. Representative Stanton, we do recognize that this is a bridge, a bridge that will give us a safe haven as we move forward to renegotiate the 2007 Guidelines which expire at the end of 2026, as does the Drought Contingency Plan.

In our inter-Arizona discussions, we recognize that bridge, and in our plan, within Arizona, in the last 3 years of the plan, the mitigation reduces from 75 percent to 50 percent to zero percent in 2026. We did that to send a strong message that this is indeed a temporary plan, that we face a drier future, and that we need to address longer term issues, and I think the venue to do that will be through the renegotiation of the 2007 Guidelines. And it remains to be seen what legislative package we might need out of Congress as a result of those negotiations.

Mr. STANTON. All right. Thank you very much, Director.

I should note, he may have kept it off his resume when he applied for the job with the Governor's Office—or the Director for the State, but he was the Water Planning Director for the city of Phoenix before. We trained him well.

It is great to see you have gone on to bigger things. Thank you for your leadership.

I yield back.

Mr. HUFFMAN. The Phoenix Water Director has risen, is what you are saying? Sorry for that.

Mr. Biggs, you are recognized for 5 minutes.

Mr. BIGGS. Thank you, Mr. Chairman, and I thank the Ranking Member for letting me be here. And it is good to see that the Arizona contingency is here. I mean, you could get a feel for how important this is by having so many Arizona congressional officials here today.

I thank the Arizona Department of Water Resources Director, Tom Buschatzke. Thank you for being here, and all the leaders from the seven Colorado River Basin states for your leadership in this. This really is a states-driven issue to resolve, and we are grateful for your leadership and your participation.

And I give a special welcome to Governor Lewis and Council Member Enos from the Gila River Indian Tribe in Arizona, who have also showed tremendous leadership on this issue. And just to

say, it looks like Director Buschatzke was able to overcome having to work with the leadership in Phoenix to get here today.

Mr. STANTON. Tough crowd.

Mr. BIGGS. A tough crowd, yes. Love to former Phoenix mayor, Greg Stanton, over there.

Arizona is in the 21st year of a long-term drought. However, Arizona has been able to sustain itself through this drought through implementation of successful conservation programs and robust collaboration between tribal, community, industry, and government leaders.

My district is home to cities like Mesa, Chandler, Gilbert, and Queen Creek, who receive much of its water supply from the Central Arizona Project, which receives its water, of course, from the Colorado River. In Arizona, we understand water conservation and have been leaders on this internationally as well as in this country. We have been able to build a powerful state economy in the desert because our state and its municipalities, its tribes, its counties, have successfully planned for drought and water contingencies.

Sustainability in the Colorado River is critical to maintaining Arizona's rapid growth and its strong agricultural economy. This DCP will provide certainty to Arizonans as to what their water security will look like for future generations and, indeed, for the entire Colorado River Basin states. And I am grateful, again, for your leadership.

Director Buschatzke, what are other outstanding regulatory issues or concerns that are pending regarding the Drought Contingency Plan?

Mr. BUSCHATZKE. Representative Biggs, in our internal Arizona plan, we are heavily reliant upon the ability to more intentionally create surplus in Lake Mead. The Gila River Indian Community will put 215,000 acre-feet of their water into the Intentionally Created Surplus Program. We need this legislation passed to incentivize them to do that so their water might not be stranded.

In the agricultural sector, within the Central Arizona Project service area, they will be losing all of their Colorado River water probably after the third year of the plan. They will go back to pumping groundwater, a right they received under the 1980 Groundwater Management Act, and a right they maintained.

We are working with them, as others are working with them, through the Department of Agriculture, to look for potential opportunities to get some funding from that organization, matching local funding from the state, the Central Arizona Project, and the farmers themselves, to help facilitate that transition to groundwater. Those are a couple of the items that we see are very important.

Mr. BIGGS. Can you also walk us through how the DCP fits within the multi-species conservation program and EIS for the 2007 Guidelines?

Mr. BUSCHATZKE. Representative Biggs, again, as we negotiated the Drought Contingency Plan between the states, we looked for flexibility with existing compliance under the Environmental Impact Statement. One of the areas that that flexibility arose was the ability for each of the three states in the Lower Basin to increase their cumulative capacity to intentionally create surplus in

the lake. So, Arizona is going from 300,000 acre-feet of capacity to 600,000 acre-feet, helping to facilitate a tribal Intentionally Created Surplus Program within our state. We knew that had been analyzed, that volume. The total volume had been analyzed in the EIS, and so we were comfortable that we were covered in that regard.

On the Endangered Species Act side, we knew that in the Multi-Species Conservation 50-Year Plan there were adaptive management components that would allow us to cover any of the impacts that might occur from the Drought Contingency Plan. And while they are still working through the details of what that might mean, I am aware that perhaps about 12 acres of backwater habitat and about 15 acres of marsh habitat, additionally, might need to be created at a cost of about \$1 million, all coming within the confines of the existing and the MSCP plan that is put together through all three states, not just Arizona.

Mr. BIGGS. Thank you, Director.

And thank you for letting an encroacher take a few minutes. Thank you, Mr. Chairman.

Mr. HUFFMAN. Come and see us any time, Mr. Biggs.

We will now go to the Chairman of the Natural Resources Committee, the gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you very much, Chairman. And I think my colleague, Mr. Biggs, is correct, this is a rare moment, this bipartisanship that has broken out in the state of Arizona, here in Congress, and it is a welcome sight, and we hope we can see more of that in the future.

I just want to briefly say, and I think the Director said this very well yesterday when we met and he repeated again, that this plan provides a safe haven for the Basin states and for the stakeholders, that it is, indeed, an interim step toward something that is going to require the continued work of all the participants, the continued work of Congress, for deeper and more meaningful assurances going forward.

And business as usual is not going to be business as usual, and the empirical analysis that went into this plan is very, very important. And the climate analysis and the projections that must be part of the future planning are going to be very, very critical. So, I think it is important—2026 is not that far away, so the work, we finish this and then suddenly we find ourselves back. And assured water just can't be a little box we check off. It has to be, indeed, by definition assured. I think that is what makes development in our respective states so important.

Also, I think that there is a public health aspect to it as well, there is a jobs aspect to it as well, and there is an environmental aspect to it as well. And all of us, all these states that are part of this plan are blessed with having growing economies in many cases, but also blessed with some environmental jewels that are rare and only found in this area. And I think that that can be balanced, but the work ahead—and I do want to congratulate everyone, Mr. Huffman, for the work put in, and the urgency that you brought to the discussion. And certainly, in all the meetings that I have had with respective stakeholders that have come in, that urgency has been there.

And the concept of a safe haven for now, relieve pressure, and plan for the future, I think is well put, Director, and I think that should be, at least for myself, the working phrase that I am going to use. We bought some time. And what we do with the time we have till 2026 is going to be very, very critical.

Thank you, Mr. Huffman, as I said before, for expediting this hearing, and I look forward to working with you on how we can move it through Committee and Floor in the very near future. Thank you, sir.

Mr. HUFFMAN. Thank you, Mr. Chairman.

The Chair now recognizes the Ranking Member for 5 minutes.

Mr. MCCLINTOCK. Thank you, Mr. Chairman.

I do have to marvel at a remarkable achievement. In all my years, I have not found a more controversial issue than water, and certainly, there is no more politically diverse group of states than represented before the Committee today. I don't know how you came to agreement on this, but I can only stand in awe of the fact that you did.

My question is, what happens if Congress starts tinkering with your work, how fast does it begin to unravel? Mr. Tyrrell, maybe as a departing or soon-to-retire member, you can give us some insight into that.

Mr. TYRRELL. Thank you. Mr. Chairman, Representative McClintock, we would hope that that wouldn't happen, obviously, because those words were pretty carefully crafted, but we understand it can. I think what would happen is we would take the words home and look and see—we still need to execute the DCP documents after legislation is completed. We would go home with that as our next task, look at that language, and then make the decision, go or no go, at that point, or come back. But I would hope we would be moving down the road.

Mr. MCCLINTOCK. It appears to me at the moment you have seven states all in agreement on this plan.

Mr. TYRRELL. Yes.

Mr. MCCLINTOCK. And it would appear to me that any changes that Congress made in this plan would then basically complicate matters enormously as you go back to your various states and digest those changes?

Mr. TYRRELL. Absolutely.

Mr. MCCLINTOCK. And is time of the essence on this? I guess we don't know. It could be?

Mr. TYRRELL. Mr. McClintock, Mr. Ranking Member, yes, it is. I believe time is of the essence. I think certainly, in our view, we know that the water year this year looks good, but as Commissioner Burman showed, one good year does not solve a 19-year drought. If we want to avail ourselves of the commitments and contributions of Mexico by the time the August 24-month study comes out, we need action by the end of April, is what we are looking at.

Mr. MCCLINTOCK. Mr. Nelson, I need to ask a politically incorrect question that has been nagging at me. We keep hearing about the Imperial Irrigation District and the importance of the Salton Sea. My recollection is the Salton Sea was a terrible accident that

occurred in 1905. In millennialese, WTF? Why are we obsessing on it?

Mr. NELSON. You are absolutely correct, Mr. McClintock, that the Salton Sea was created in 1905, when the California Development Company was working on a diversion of the Colorado River for irrigation purposes in the Southwest. That dam, their berm broke, and the water, for 2 years, poured into the Salton Sink, which is the basin that the agricultural drain water and floodwaters of the Coachella and Imperial Valleys go to.

Mr. MCCLINTOCK. Does it hold any significant economic or environmental importance, other than the fact it is just there by accident?

Mr. NELSON. Yes, when you look at the long-term history, in other words, longer than a hundred years, you find that the Colorado River actually drained into the Sea of Cortez, or when it was silted up by the Arizonans sending over their sand to California, that it would berm up and the water would slow down. And the water would actually change course and move into the ancient Lake Cahuilla. And you can see those marks on the mountain sides in the Coachella Valley and just how high those lake levels were.

So, in other words, in ancient history, the Coachella Valley was a part of the delta. This water feature is vitally important to the Pacific Flyway. It is important to the community in terms of the agricultural community has used it—

Mr. MCCLINTOCK. Well, it was important in ancient times, and it has become important because we accidentally re-created it in modern times. But in the grand scheme of things, I still don't understand its importance, but we can probably do another whole hearing on that.

Mr. NELSON. OK. Yes, sir.

Mr. MCCLINTOCK. Mr. Millis, one more quick question. Pulse flows out of Glen Canyon. There was a great deal of fuss about that a few years ago, doing those pulse flows, bypassing the turbines, losing the hydroelectricity. Are we still doing that?

Mr. MILLIS. I believe you are talking about the high-flow experiments that are occurring about annually, and there is benefit, there is interest in the science involved with that, and so those continue.

Mr. HUFFMAN. All right. The Chair now recognizes the gentleman from Colorado, Mr. Neguse. Mr. Neguse, before you got here, we had every member from the Arizona delegation, and they actually made a motion and changed the name of the river to the Arizona River.

Mr. NEGUSE. I suspected that might happen.

Mr. HUFFMAN. But you get the last word on this.

Mr. NEGUSE. I appreciate that, Mr. Chairman. And thank you for hosting this important hearing.

The Colorado River Drought Contingency Plan is obviously an important proposal that needs to be discussed, not only for my home state of Colorado, the other six Basin states, but also for the country. I also want to thank the witnesses for appearing today and for their testimony, in particular, of my friend and former

colleague, Mr. Eklund, whom we served together in the Governor's cabinet many years ago. It is good to see you.

Drought is a problem that impacts every state and every district in the country, but it is especially magnified in the western United States. That is why it is critical that Congress discuss this plan and ensure that the health and long-term sustainability of the river is preserved.

Water is, of course, the lifeblood of Colorado. To the Chairman's point, we are the head water state, because water that starts as snow in our mountains finds its way to 18 downstream states, as well as numerous American Indian tribes, two oceans, and the Republic of Mexico. So, I am certainly excited to be speaking with folks on this panel about an issue that impacts so many communities in the West, and in my home state in particular.

I want to thank, as I said, the witnesses with respect to their service. Obviously, there are a lot of vested interests, a lot of stakeholders, not just the state governmental entities and authorities, but also numerous conservationists, environmental organizations, and so forth. One organization in my district, Save the Colorado, led by Dr. Gary Wockner, has raised some questions regarding the Drought Contingency Plan, so I want to focus on a few that I think are worth meriting discussion here.

The first is, Mr. Eklund, or for any of the witnesses who care to comment, in trying to understand with respect to the Drought Contingency Plan what prior acts of Congress and potentially other permitting processes—so Environmental Impact Statements, Records of Decision—does the Drought Contingency Plan or would the Drought Contingency Plan supersede to the extent it were approved by the Congress? In particular, I think folks are interested to know whether or not it would impact the Record of Decision with respect to the Glen Canyon Dam long-term experimental and management plan EIS.

Mr. EKLUND. Thank you, Congressman. I can answer that bluntly, it doesn't impact us. And importantly, the tools we are talking about in the DCP operate within the framework of and comply with existing environmental laws, including the Records of Decision and Biological Opinions that were formed under NEPA and the ESA.

Mr. NEGUSE. Thank you, Mr. Eklund, for that clarification. And the second question, as I understand it, the Bureau of Reclamation's 2012 Colorado River Basin study indicates that climate change could lead to a decrease of up to 7.4 million acre-feet of water per year flowing in the Colorado River. The Drought Contingency Plan obviously attempts to offer some solutions with respect to this issue. But as I understand it, the plan estimates about 1 million acre-feet in the Lower Basin, that that is sort of what it would deliver, in addition to water that is essentially purchased from farms and agricultural interests in the Upper Basin.

I am curious if you can perhaps share more around the conversations and negotiations that happened between the respective states around whether there are potentially other comprehensive solutions that could address that delta. Because it is a large delta, and I know it is something that we all, I suspect, collectively want to address and would just welcome your answer, Mr. Eklund, as well as anyone else on the panel.

Mr. EKLUND. I will field the first and then yield to the colleagues up here at the dais. I believe we started out on this journey to address the situation on the river as a result of the really catastrophic situation we saw in the period from 2002 to 2004. We asked the Bureau of Reclamation to model the two reservoirs, Powell and Mead, and tell us what would happen if the next 10-year period of record looked like the last 10-year period, and tell us what the results were. And what they told us was that there was a significant downturn, that we would have to deal with shortages in the Lower Basin, and, of course, in the Upper Basin, the compromising of our bucket, if you will, the Lake Powell.

Those were the two issues that were very apparent to us. So, we went ahead and started the discussions in the Lower Basin. They talk about what they can do at Lake Mead to make sure that the system is stable and hopefully more resilient. In the Upper Basin, we are doing the same thing with the elevation of Lake Powell. It is less about trying to control something we know we can't and more about trying to maintain those reservoirs and operate them in a manner that gets the most out of them.

Mr. NEGUSE. I see my time has expired. If the Chair would indulge me, I would say, thank you, Mr. Eklund for that answer. And as we move forward, again, I appreciate this hearing giving us, the Committee, an opportunity to engage on this issue before the legislation comes before us for our consideration, and would just encourage you all, as you continue to have a multitude of conversations and negotiations in the years to come, to continue to engage conservationists and different stakeholders in the broader sense, because that delta is very large, just according to the Bureau of Reclamation's own data, and it is something that is incredibly important, obviously, to the future of the western United States and of my home state of Colorado. So, engaging groups like Save the Colorado and many others I think would be an important part of your work.

With that, I would yield back.

Mr. HUFFMAN. All right. Thank you, Mr. Neguse.

I want to thank all of the witnesses and everyone else who has joined us here today. This has been a very helpful hearing to spotlight the importance of the DCP for the American Southwest. I think you have heard from Members of both sides of the aisle that we appreciate the great hard work you have done to get us this far, and now the work moves to Members of Congress to do our part in moving this forward. So, thank you for your testimony.

Members of the Committee may have additional questions for the witnesses. Under Committee Rule 3(o), we will ask that you respond to those in writing. Members of the Committee must submit witness questions within 3 business days following the hearing and the hearing record will be held open for 10 business days for these responses.

If there is no further business, this Committee stands adjourned. Thank you.

[Whereupon, at 12:33 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Huffman

April 1, 2019

Dear Members of Congress:

We write today in strong support of the seven Colorado River Basin States Drought Contingency Plans (DCP). We support the ongoing work of the states as well as the federal “Colorado River Drought Contingency Plan Authorization Act” required to execute and implement those plans, which we understand will be introduced soon.

The DCPs are intended to incentivize water conservation while protecting existing water rights, recognizing the values of the Basin’s agricultural communities and respecting the need to protect its environmental resources. We appreciate that the DCPs establish processes that build on existing federal NEPA and ESA decisions.

From the headwaters to the Salton Sea and the delta, our groups have worked over the past two decades with the U.S. Bureau of Reclamation, the seven Colorado River Basin states, and water providers and users throughout the Basin to find solutions that work for both people and nature. We believe the states are close to a final agreement and we steadfastly support their actions. Once the states finalize the DCPs, we will continue our efforts during DCP implementation, as we also work with all parties to improve conditions at the Salton Sea and across the basin.

The Colorado River provides water to approximately 40 million people and 5.5 million acres of irrigated agriculture in the Upper Basin (Colorado, New Mexico, Utah and Wyoming) and the Lower Basin (Arizona, California and Nevada), as well as in Mexico. Since 2000, the Basin has experienced historically dry conditions and combined storage in Lakes Powell and Mead has reached its lowest level since Lake Powell initially began filling in the 1960s. Lakes Powell and Mead could reach critically low levels as early as 2021 if conditions do not significantly improve. Declining reservoirs threaten water supplies that are essential to the economy, environment, and health of the Southwestern United States.

Now is the time we all must work together for the sake of the future of the Basin. Therefore, it is critical that we support the goals of the DCP agreements in both basins and urge your support for these agreements through the “Colorado River Drought Contingency Plan Authorization Act.” We look forward to working with the states, the administration and the Congress on implementation of these historic agreements.

Sincerely,

Matt Rice,
American Rivers

Kevin Moran,
Environmental Defense Fund

Julie Hill-Gabriel,
National Audubon Society

Taylor Hawes,
The Nature Conservancy

Melinda Kassen,
Theodore Roosevelt Conservation
Partnership

Steve Moyer,
Trout Unlimited

Bart Miller,
Western Resource Advocates

STATEMENT FOR THE RECORD
SUPPORTING THE COLORADO RIVER DROUGHT CONTINGENCY PLAN

The undersigned organizations work for the protection and restoration of the Colorado River Basin. Over the past two decades, we have devoted considerable effort to working with the U.S. Bureau of Reclamation, the seven Colorado River Basin states, Mexico, and water providers and users throughout the Basin to find solutions that work for both people and nature. To advance the conservation of Colorado River water, we support the Drought Contingency Plan agreements that have been reached between the seven Colorado River Basin states.

The Colorado River provides water to approximately 40 million people and 5.5 million acres of irrigated agriculture in the Upper Basin (Colorado, New Mexico, Utah and Wyoming) and the Lower Basin (Arizona, California and Nevada), along with Mexico. Since 2000, the Basin has experienced historically dry conditions and combined storage in Lakes Powell and Mead has reached its lowest level since Lake Powell initially began filling in the 1960s. Lakes Powell and Mead could reach critically low levels as early as 2021 if conditions do not significantly improve and one good snow year does not reverse the trend. We are concerned that if the DCPs are not adopted and implemented, the entire region risks a crisis that will impact communities, farms, industries, wildlife, recreational economies and the health of our rivers.

We support the goals of the Drought Contingency Plan (“DCP”) agreements in both basins:

- The Upper Basin DCP is designed to: a) protect critical elevations at Lake Powell and help assure continued compliance with the 1922 Colorado River Compact, and b) authorize storage of conserved water in the Upper Basin that could help establish the foundation for a Demand Management Program that may be developed in the future.
- The Lower Basin DCP is designed to: a) require Arizona, California and Nevada to contribute additional water to Lake Mead storage at predetermined elevations, and b) create additional flexibility to incentivize additional voluntary conservation of water to be stored in Lake Mead.

The DCPs provide additional water supply security to all Colorado River water users, including in Mexico, through 2026. They run in parallel with the 2007 Interim Guidelines for the Coordinated Operations of Lake Mead and Lake Powell and for Lower Basin Shortages and will serve as a crucial bridge to achieving new operational guidelines for the future. The DCPs have been coordinated with Mexico and tie into the binational water scarcity provisions in Minute 323. The binational provisions provide certainty with respect to how shortages will be allocated to Mexico and ensure that Minute 323, including its important environmental components, can continue without conflict associated with competing interpretations of the 1944 Treaty.

We appreciate the many years of work that the Basin States have put into the development of their DCP agreements and proposed federal legislation. Their effort demonstrates the true value of bi-partisan, multi-interest collaboration. The result should benefit users and rivers across Basin.

The DCP agreements and supporting legislation supplement the underlying provisions of the “Law of the River”, and should not grant the Secretary of Interior any additional authority or avoid environmental compliance related to future implementation of the DCPs. The agreements will allow the states and the Department of the Interior to continue the tradition over the past 20 years of developing innovative water management solutions to address the changing climate. As conservation and sportsmen’s organizations, we appreciate and understand the DCP agreements keep existing federal and state environmental laws and policies intact. The existing water storage and conservation agreements in the Lower Basin have been successful in preserving over 20 feet of elevation in Lake Mead and have prevented a Lower Basin shortage so far, but the DCPs demonstrate the collective judgment of the Basin States and the Department of the Interior that more needs to be done now to ensure benefits can be achieved starting in 2020 and beyond.

Federal Legislation is an Important Element of the DCPs

As noted in the Basin States March 19, 2019 letter to Congress, Federal legislation is necessary to secure full implementation of the DCP agreements and to ensure that all the participating states and the Department of the Interior will comply with the terms of the agreements.

Given the urgent need for action, we concur with the Basin States' request that Congress adopt federal legislation as soon as possible, so that the parties can begin to implement their drought contingency planning.

Upper Basin Benefits

The Upper Basin DCP agreements have the potential to provide significant benefits and protections for the environment while also reducing water security risk, and we look forward to continuing to work cooperatively with the Upper Division States, the Upper Colorado River Commission, and Bureau of Reclamation to develop tools to implement the provisions of the Upper Basin plans. One goal of the Upper Basin Drought Response Operations Agreement, part of the Upper Basin DCP, is: "Continued funding and implementation of environmental and other programs that are beneficial to the Colorado River system." The Agreement establishes a Framework "developed in recognition of, and consistent with, the law and practice relevant to the Upper Basin." It provides explicitly that drought operations involving release of water from CRSPA reservoirs to maintain levels in Lake Powell will continue according to their Records of Decision, Biological Opinions and other provisions already reviewed under the National Environmental Policy Act and the Endangered Species Act, as well as provisions of state water right systems.¹ It also provides that nothing in the Agreement affects state's rights and powers to regulate, appropriate, use and control Colorado River allocations.² The agreement requires that Drought Operations plans consider the "timing, duration and magnitude of releases to help minimize, the extent possible, impacts to natural resource conditions."³ Finally, it provides that nothing in the Agreement "alters rights, obligations and authorities of the parties [states and the Secretary of Interior]" and that nothing in the Agreement "affects or shall be interpreted to affect the obligations that each Party may have related to natural resources around the CRSPA Initial Units under applicable law."

The Upper Basin DCP enables storage in Lake Powell to help avoid involuntary compact curtailment. Involuntary curtailment would almost certainly trigger extensive litigation and could also mean drastic water use reductions in places and at times that could have an adverse effect on stream flows. Dry-up of farmland and ranchland caused by involuntary curtailment may also have significant adverse effects in many locations in the Upper Basin. More generally, involuntary curtailment would divert federal and state limited resources away from projects and policies that meet the needs of both water users and the environment.

Maintaining levels in Lake Powell sufficient for hydropower generation helps ensure the continuation of a critical revenue stream that has traditionally supported efforts to reduce salinity and selenium levels in the Colorado River system, repayment of federal water projects for farmers and communities, and irrigation infrastructure improvements that, properly designed, can benefit both irrigators and stream flows.

Lower Basin Benefits

In the Lower Basin, the DCP agreements are designed to supplement the 2007 Interim Guidelines to protect Lake Mead from falling to elevations that would jeopardize water deliveries by requiring additional proactive water conservation measures and incentivizing storage of additional water in Lake Mead through the Intentionally Created Surplus program, which has already facilitated over 2 million acre-feet of storage. The LB DCPs will ensure that the Lower Basin States, water agencies, NGOs and Tribes can continue to successfully implement the Lower Basin Multi-Species Conservation Program along with other important programs in the Lower Basin. Like the Upper Basin agreements, the Lower Basin agreements will be interpreted, governed by, and construed under applicable federal law.⁴

Arizona:

We commend the progress achieved within Arizona to obtain the necessary support from the Arizona Legislature to authorize the Director of the Department of Water Resources to execute the DCPs. Our groups appreciated the ability to have participated in the State of Arizona's DCP Steering Committee process through the

¹Upper Basin Drought Response Operations Agreement, Sections I(c)(2); and II(A)(3)(b); II(A)(4)(b)(ii).

²Id., Section I (c)(4).

³Id., Section II(A)(3)(f).

⁴Lower Basin Drought Contingency Plan Agreement, Section 5.g.; Upper Basin Demand Management Storage Agreement, Section III.D.6; Upper Basin Drought Response Operations Agreement, Section II.B.10.

Water for Arizona Coalition and to have been an integral part of the DCP solutions. Arizona's DCP Implementation Plan will have a net positive benefit to the system and we stand ready to continue to ensure the DCP measures will be a success through the following examples:

- The DCP avoids drastic shortages which would put increased stress on aquifers in Central Arizona. Groundwater pumping within Arizona's Active Management Areas, even with the DCP in place, will continue to be regulated under Arizona law and in accordance with any necessary environmental requirements.
- Arizona's DCP implementation plan allocates water reductions within Arizona to ensure more water is being left in Lake Mead and that groundwater resources are not unreasonably utilized.
- The DCP provides system conservation program incentives for additional water conservation, which will be needed to resolve system imbalance. System conservation agreements will be an important component of ensuring Lake Mead elevations will be protected.
- The DCP establishes an ongoing and collaborative process to ensure Lake Mead elevations are always protected.

California:

The LB DCP allows California's Colorado River contractors to maintain their existing stored water in Lake Mead and establishes rules for an orderly withdrawal of water from Lake Mead, with a net benefit to Lake Mead. Flexibility and access to water within the Colorado River Basin decreases reliance on water for southern California from northern California.

According to the agencies within California, the Lower Basin DCP can be implemented within California without any adverse impacts to the Salton Sea, or the environment in general. Through a letter dated March 9, 2019 the State of California Natural Resources Department committed to ensuring that progress can move forward with projects at the Salton Sea, and urged completion of the DCPs. We commend the March 8, 2019 commitment of the Department of the Interior to continue to work with the State of California, California's Colorado River contractors and US Department of Agriculture on measures to address habitat and dust control concerns at the Salton Sea. We will continue to advocate for swift action to complete more habitat and dust control projects and obtain compliance with the State Water Resources Control Board's November 7, 2017 Stipulated Order on Long Term Management of the Salton Sea.

Conclusion

We appreciate the Congressional support necessary to advance the proposed DCP federal legislation and request your prompt action in this critical effort. Although additional agreements to build upon the DCPs and the 2007 Interim Guidelines will be necessary to ensure continued stability and resilience in the Basin beyond 2026, implementation of the DCPs this spring will ensure there will be an opportunity to develop those additional agreements with a reduced level of conflict and growing level of operational knowledge.

Please accept this statement for the record for your hearings later this week. Thank you in advance for your work on this important issue.

American Rivers	Environmental Defense Fund
National Audubon Society	The Nature Conservancy
Theodore Roosevelt Conservation Partnership	Trout Unlimited
Western Resource Advocates	

ACWA—ASSOCIATION OF CALIFORNIA WATER AGENCIES
SACRAMENTO, CALIFORNIA

March 27, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
Natural Resources Committee,
U.S. House of Representatives

Hon. MARTHA MCSALLY, *Chair*,
Hon. CATHERINE CORTEZ MASTO, *Ranking Member*,
Subcommittee on Water & Power,
Energy & Natural Resources Committee,
U.S. Senate

Dear Chairs and Ranking Members:

The Association of California Water Agencies (ACWA) would like to associate itself with the March 19th letter of the seven States of the Colorado River Basin (Basin States) regarding the importance of Congress quickly passing legislation directing the Secretary of the Interior (Secretary) to implement the drought contingency plans (DCPs) as agreed to by the Basin States.

ACWA is the largest statewide coalition of public water agencies in the country. ACWA's mission is to assist its 450 members in promoting the development, management and reasonable beneficial use of good quality water at the lowest practical cost in an environmentally balanced manner.

During the past eighteen years, western drought conditions have worsened and new measures are needed to protect water supplies for the 40 million people throughout the Colorado River Basin who rely on this vital source of water. With swift congressional action to help implement the DCPs this year, the DCPs will:

- Provide operational certainty regarding Intentionally Created Surplus (ICS) conserved water supplies if Lake Mead declines below elevation 1,075 feet;
- Reduce the risk of Lake Mead dropping below the critical elevation of 1,020 feet from over forty percent without the DCP to about five percent with implementation of the DCP; and
- Incentivize the conservation and storage of water in Lake Mead this year with the assurance of greater flexibility in storage and recovery of ICS supplies.

ACWA recognizes as of this date, the DCPs will be implemented without the Imperial Irrigation District's (IID) participation. ACWA is pleased the state of California has recently acknowledged concerns expressed regarding Salton Sea management and restoration related issues and encourages all interested parties to move forward with plans and funding to address these concerns. ACWA strongly supports efforts to restore the Salton Sea.

Thank you for your leadership on the DCPs which ACWA views as a critically important western water issue. Sincerely,

Sincerely,

DAVE EGGERTON,
Executive Director.

BUSINESS FOR WATER STEWARDSHIP

March 26, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
House Committee on Natural Resources

Hon. MARTHA MCSALLY, *Chair*,
Hon. CATHERINE CORTEZ MASTO, *Ranking Member*,
Subcommittee on Water & Power,
Senate Committee on Energy & Natural Resources

Re: Drought Contingency Plans in the Colorado River Basin

Dear Chairs McSally and Huffman, Ranking Members Cortez Masto and McClintock:

Representing a network of nearly 1,300 businesses working on Colorado River basin issues, Business for Water Stewardship urges you to support the seven basin states' request for federal legislation supporting implementation of approved Drought Contingency Plans (DCPs). This request from the states comes after years of negotiations, with states pledging proactive conservation measures to safeguard Colorado River water supplies and protect water levels in Lake Mead.

Many dozens of businesses across the Colorado River basin—including Intel, Cox, the Arizona Chamber of Commerce and Industry, Swire-Coca-Cola and many others—signed on to letters of support and/or met with state leaders to emphasize the critical need for drought planning and the DCP. Now is the time for Congress to pass companion federal legislation authorizing implementation of the DCPs through the Secretary of the Interior.

Across economic sectors, business operators increasingly recognize the challenges drought has brought to the Southwest and all the Colorado River basin states. Uncertainty around water availability and pricing, combined with pressures from population growth, threaten business operations, economic prosperity, business innovation, investment, and financing.

Our broad-based network of companies and business organizations has already stepped up to urge state leaders to prioritize drought planning, and many in our group are already taking voluntary steps to reduce water footprints, conserve water, and contribute to a secure water future. The myriad business partners that operate in Colorado River basin states understand first-hand the risks that come with water uncertainty and see the DCPs as a key step in addressing that risk.

The leadership and agreements at the state level show that this is a bi-partisan issue. Democratic and Republican governors and non-partisan water agencies negotiated the DCPs. Decisive, federal passage of DCP implementation legislation is essential to provide a secure water future for agriculture, industry, cities and communities throughout the Southwest.

We look forward to working with you on implementation of federal legislation on the DCPs. You can learn more about our organization at www.businessforwater.org.

Sincerely,

TODD REEVE,
Director.

CALIFORNIA NATURAL RESOURCES AGENCY,
SACRAMENTO, CA

March 27, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Huffman and Ranking Member McClintock:

The California Natural Resources Agency supports implementation of the Seven Colorado River Basin States Drought Contingency Plans (DCPs).

Our agency is charged with managing water resources in California and recognizes this landmark agreement as critical to our efforts. It will enable states to manage ongoing dry conditions in the basin by enhancing conservation of Colorado River water and providing new water management tools to address shortages. Specifically, these plans provide important flexibility for California water users to store supplies in Lake Mead and to broaden conservation activities that result in further banked water supplies.

More broadly, this agreement represents the type of shared, collaborative approach that is needed to manage the Colorado River and other shared water resources amidst increasingly uncertain hydrology. It will enable our states to work together to build more resilient water supplies that protect our communities and natural environment in coming decades.

At the same time, we are committed to addressing pressing environmental conditions in the Salton Sea and implementing our State's 10-Year Salton Sea Management Plan. This includes working intensely to implement near-term projects at the Sea to suppress dust emissions and create critical habitat. Working closely with our federal partners, we are focused on bringing important federal funding to enable these projects, which will augment the state's current investment of \$280 million in these efforts.

We are grateful for your consideration of legislation that will enact this historic seven state agreement. We are further thankful for your attention and leadership as you consider any final changes to this legislative proposal that address outstanding issues and enable this legislation to pass as soon as possible during the 116th Congress.

Sincerely,

WADE CROWFOOT,
Secretary.

PREPARED STATEMENT OF ALEXANDRA M. ARBOLEDA, BOARD MEMBER
CENTRAL ARIZONA WATER CONSERVATION DISTRICT

Chairman Huffman, Ranking Member McClintock and members of the Subcommittee, I am Alexandra M. Arboleda, a board member of the Central Arizona Water Conservation District (CAWCD), which manages the Central Arizona Project (CAP). Thank you for the opportunity to submit this statement for the record. As a member of the CAWCD Board of Directors, elected by the people of Maricopa County, and as an attorney involved in southwestern water policy for two decades, I urge you to approve the legislation authorizing the Colorado River drought plan. The Drought Contingency Plan (DCP) will provide three important things for the Colorado River Basin and the 40 million people who call it home: Certainty, Reliability, and Sustainability. It does so in a system marked by over-allocation and high variability of flows.

For the last two and a half years, I participated in Arizona's drought contingency planning and can tell you that DCP is the result of the 'painstaking work of building consensus.' DCP is an example of individual interests negotiating for the greater good, with a belief that principled compromise toward a common goal results in the best outcomes. DCP is the result of bipartisan cooperation and a recognition of the legitimate policy concerns of those with whom one might disagree. DCP implements creative, innovative solutions that resulted from listening to others' viewpoints with an eye toward problem solving. Water users, the seven basin states, the federal government, and Mexico have voluntarily agreed to curtail Colorado River diversions with an understanding that we all share in the benefits that the River provides; so, we must also work together to conserve and to use our water responsibly.

In Arizona, DCP reduces Colorado River use by creating incentives for conservation and storage of water and through agreements to voluntarily reduce water use. Further, CAWCD and the State of Arizona are providing mitigation resources to soften some of the immediate impacts to Arizona water users. It should be noted that Arizona, and specifically CAP water users, bear the brunt of the DCP voluntary reductions. For example, CAP diverts about 1.6 million acre feet of water per year of Arizona's entitlement to 2.8 million acre feet. Under the DCP, if Lake Mead elevations were to fall to elevation 1,025', CAP and its water users have agreed to reduce their use by 720 thousand acre feet per year. That is a reduction of *almost half* of CAP's allocation from the Colorado River. Furthermore, water users in other basin states, the federal government and Mexico have all agreed to reduce their water use from the River, so that jointly and voluntarily the collective reduction at elevation 1,025' is 1.475 million acre feet per year. These collective actions reduce the risk of Lake Mead reaching critical levels from 43% to 8%.

Much work remains ahead to bring about sustainable water management in the Colorado River Basin, but DCP will stabilize a threatened system and may serve as an example of how to achieve voluntary and mutually beneficial water management agreements in the future. Thanks to the leadership of Ted Cooke, General Manager of CAP, Tom Buschatzke, Director of the Arizona Department of Water Resources, and Hunter Moore, Governor Ducey's Policy Advisor for Natural Resources, Arizona has chosen a path toward certainty, reliability and sustainability for its Colorado River water. The collaborative solutions the parties to DCP have reached exemplify the old adage: 'It's better to bend a little than to break.'

Please vote in favor of the legislation authorizing implementation of the Colorado River drought plan.

PREPARED STATEMENT OF THEODORE C. COOKE, GENERAL MANAGER
CENTRAL ARIZONA WATER CONSERVATION DISTRICT

Chairman Huffman, Ranking Member McClintock and members of the Subcommittee, I am Theodore Cooke, General Manager of the Central Arizona Water Conservation District (CAWCD). Thank you for the opportunity to provide the views of the CAWCD on the Colorado River Drought Contingency Plan (DCP) through this statement for the record. For the reasons I will discuss below, CAWCD supports the DCP and urges swift action by Congress to authorize the Secretary of the Interior to implement it. The agreements that make up the DCP will mitigate the risks posed by drought for the people who depend upon the waters of the Colorado River, including those served by CAWCD. We are eager to assist this Subcommittee in the effort to enact federal authorizing legislation for this critical multistate initiative to improve water security for the 40 million people that rely on the Colorado River system.

Role of CAWCD in Arizona

CAWCD manages the Central Arizona Project (CAP), a 336-mile canal system that delivers Colorado River water into central and southern Arizona. CAWCD's service area includes more than 80 percent of Arizona's population. The largest supplier of renewable water in Arizona, CAWCD diverts an average of over 1.5 million acre-feet of Arizona's 2.8 million acre-foot Colorado River entitlement each year through the CAP to municipal and industrial users, agricultural irrigation districts, and Indian communities. Our goal at CAWCD is to provide our customers with an affordable, reliable, and sustainable supply of Colorado River water.

These renewable water supplies are critical to Arizona's economy and to the economies of numerous Native American communities within the state. Nearly 90% of economic activity in the State of Arizona occurs within the CAP service area. The canal provides an economic benefit of \$100 billion annually, accounting for one-third of the entire Arizona gross state product. CAP also helps the State of Arizona meet its water management and regulatory objectives of reducing groundwater use and ensuring availability of groundwater as a supplemental water supply during future droughts. The long-term sustainability of a state as arid as Arizona depends on achieving and maintaining these water management objectives.

Explanation of the DCP

The DCP is designed to protect the Colorado River system through reductions in use and increased incentives for storage in Lake Mead, the Lower Basin's principal reservoir. The DCP agreements were developed through a collaborative process amongst the federal government, states, water users and Mexico. The Arizona Department of Water Resources (ADWR) and CAWCD were the participants from Arizona.

There is an Upper Basin DCP involving Colorado, New Mexico, Utah, Wyoming and the United States; a Lower Basin DCP involving Arizona, California, Nevada and the United States; and a companion agreement which connects these two programs and links them to Mexico through a United States-Mexico agreement. Within the State of Arizona itself, there is also a package of agreements called the Arizona DCP Implementation Plan. In 2018 and early 2019, ADWR and CAWCD jointly led nearly 40 stakeholders through months of public and small group meetings that led to agreement on this plan, which ensures that the burden of impacts from Colorado River delivery reductions and the benefits of increased reliability will be shared among Arizona water users. The plan, in the words of Lisa Atkins, CAWCD board president, "essentially 'shares the pain' amongst those who must bear the brunt of shortage" and "reflects how Arizonans typically work together to address water challenges and opportunities." On January 31, 2019, the Arizona Legislature adopted legislation in support of the Arizona DCP Implementation Plan, and authorized the State of Arizona to sign the Lower Basin DCP after federal legislation is passed.

If federal legislation implementing the DCP is enacted in 2019, reductions to Arizona's Colorado River supply under DCP begin immediately. The DCP agreements run through 2026, the expiration of the existing Colorado River shortage guidelines (2007 Guidelines). It is anticipated that new rules will be negotiated and put into effect after 2026.

Why the DCP is important to the future of Arizona

The risks of Lake Mead falling below critically low elevations have tripled in the past decade, increasing the risks of large-scale reductions to Arizona's Colorado River supply and threatening the health of the river for all users. The 2007 Guidelines, designed to protect the Lower Basin against extended drought, are not sufficient to address the current risks to the system. The DCP is designed to be an

overlay on the 2007 Guidelines and provide greater protection for Lake Mead until those guidelines are replaced after 2026.

Because of its junior priority on the Colorado River, CAP faces the greatest risk from shortage on the Colorado River. Indeed, under the DCP, CAP water users will be taking the largest cuts in supply. However, in recognition of the heightened risk that all water users in the Colorado River basin face, California has joined Arizona and Nevada in taking reductions under the DCP. Mexico has also agreed to take reductions if Lake Mead falls beneath defined thresholds, and provided that the United States implements to the DCP.

As mentioned, DCP protects the elevation of Lake Mead through reductions in use of Colorado River water, as well as enhanced incentives for water users to store Colorado River water in Lake Mead. While the DCP will not prevent a Colorado River shortage, projections by the United States Bureau of Reclamation show that implementation of these tools under DCP would reduce the risks of Lake Mead falling below critical elevations. We estimate that without the DCP, there is about a 43% chance of Lake Mead falling below the critically low elevation of 1,025 feet. With the DCP, that risk is reduced to 8%. The reduction in risk provides assurance to Arizona residents that their future water supplies are more reliable and secure.

Conclusion

In closing, I would like to express my gratitude to many other leaders in Arizona and the other Colorado River Basin States, as well as at the U.S. Bureau of Reclamation, for helping to develop the proposals and solutions that became part of the DCP. A collaborative effort brought us to this day. Development of the DCP required willingness by all parties to face the risks posed by drought and to accept the need for both flexibility and complexity in the solutions identified. It took vision and courage from many different parties and interest groups to make these agreements possible. Arizona has faced water challenges throughout its history. We lead the nation with rigorous water conservation and sustainability laws that protect Arizona water users. The DCP is poised to become an important part of our state's efforts, with the support of our sister states in the Colorado River basin, to promote the water security that is necessary for thriving communities and economies. At CAWCD, we are proud to have participated in developing DCP, and we look forward to continuing to work with our many partners both within and outside our state to address the Basin's challenges in the future.

CAWCD enthusiastically supports the enactment of legislation to authorize the implementation of DCP at the federal level. I would be pleased to answer any questions that the members of the Subcommittee may have.

CURE—CITIZENS UNITED FOR RESOURCES AND THE ENVIRONMENT
RIVERSIDE, CALIFORNIA

March 27, 2019

Hon. JARED HUFFMAN,
U.S. Congress,
1527 Longworth House Office Building,
Washington, DC.

Re: Oversight Hearing on Drought Contingency Plan

Dear Chairman Huffman:

Citizens United for Resources and the Environment, Inc. (CURE) is a public non-profit headquartered in Riverside, California. (www.curegroup.org) For nearly 20 years, CURE has devoted considerable time and resources to the Imperial Valley in an effort to ensure that environmental and economic impacts from water transfers are addressed. The Imperial Valley is one of the poorest areas in the California, and the Salton Sea is fast becoming one of the worst environmental catastrophes in the western United States. CURE underwrote litigation challenging the Quantification Settlement Agreement (QSA) in 2003, seeking earmarked monies for Salton Sea Restoration, and CURE was a named plaintiff opposing the concrete lining of the All American Canal, given the failure of the project to address environmental and economic consequences in both the United States and Mexico. I personally have spent thousands of hours in Imperial and am a recognized expert on Salton Sea and western water rights.

CURE has never received contributions from any of the DCP parties.

CURE understands that the Imperial Irrigation District (“IID”) has objected to the proposed legislation on the Drought Contingency Plan (“DCP”), because the Metropolitan Water District agreed to contribute California’s share of water without IID’s involvement or without allocation of monies for the Salton Sea. IID also claims that the “notwithstanding any other law” language in the proposed DCP Bill is unlawful. As discussed below, IID has squandered virtually all Salton Sea resources with nothing to show, and IID has long admitted (including in the Ninth Circuit Court of Appeal) that the very same “notwithstanding any other laws” language is constitutional—a position with which the Ninth Circuit agreed.

Simply put, IID’s cries of foul should be ignored and the DCP should proceed as it is critical to addressing the prolonged drought on the Colorado. Further delay threatens both the ecosystem and economies of the Southwest and is unwarranted since the DCP was crafted specifically to avoid further impacts to the Salton Sea.

Briefly, IID presents the Valley as a victim by citing its high poverty rate and mostly minority population as a way to leverage appropriations. What happens to those monies once received is questionable. In 2017–2018, the *Desert Sun* published detailed articles highlighting alleged corruption between IID board members and local farmers in connection with contracts to relatives and friends. Similarly, the big winners in the QSA are wealthy, predominantly anglo land owners and not the Hispanic general public. IID cannot point to a single major economic development effort undertaken to alleviate poverty or attract jobs, unlike other irrigation districts such as the Tennessee Valley Authority, IID has no economic development department or program to promote job creation. IID only talks about poverty when convenient for appropriations without any concomitant accountability.

IID’s record on the Salton Sea is equally lacking. After spending millions of dollars on lawyers and lobbyists, IID has not created even a single acre of wetlands. Just last week at a State Water Resources Control Board workshop, several witnesses testified about how IID even thwarts restoration by refusing to grant necessary easements. Along these same lines, IID’s claim that geothermal development along the Sea will somehow solve air quality problems is simply false.

It is with deep regret that CURE writes this letter as we have long advocated on behalf Imperial Valley and on behalf of Salton Sea restoration. Unfortunately, history is prologue and the history of IID’s squandering of its natural resource assets is shameful. If this Committee elects to assist the Salton Sea with restoration as part of the DCP, it should first hold hearings on where those funds can be best utilized.

I would be happy to provide more details and backup documentation with regard to the above. Thank you for your time.

Very truly yours,

MALISSA HATHAWAY MCKEITH,
President.

References

IID Corruption:

Desert Sun Series Investigation by Sammy Roth

<https://www.desertsun.com/story/tech/science/energy/2017/08/09/imperial-power-players/501403001/>

Z Global Corruption

http://www.innotap.com/2017/10/district-attorney-investigating-imperial_irrigation_district-response-desert-sun-reporting/

2009 Grand Jury report:

<http://cgja.blogspot.com/2009/07/imperial-county-grand-jury-report-raps.html>

IID also unanimously board-approved in March 2018 a property transfer of two small lots in Desert Shores for a berm and wetland project that has been designed by residents and volunteers to be so far, the only restoration project in proximity to where residents actually live along the shoreline. Paperwork was drafted and the property ready to transfer. That transfer has been stalled by IID and development has not been able to take place there by the supporting NGOs or the State. Project details: www.CaliforniasSaltonSea.com

March 27, 2018 Minutes, scroll down to Item No. 12 Sale to EcoMedia, motion carried 4-0, <https://www.iid.com/Home/ShowDocument?id=16927>

State Water Board:

California State Water Resources Control Board Meeting Agenda

March 19, 2019—North Shore Yacht Club, Salton Sea

March Water Board Meeting 3/20/19 at North Shore Yacht Club, Salton Sea:

<https://www.desertsun.com/story/news/2019/03/20/residents-see-zero-progress-salton-sea-but-new-officials-say-its-time-turn-page/3223485002/>

COACHELLA VALLEY WATER DISTRICT,
COACHELLA, CALIFORNIA

March 26, 2019

Hon. JARED HUFFMAN, *Chairman*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Committee on Natural Resources,
Subcommittee on Water, Oceans and Wildlife,
U.S. House of Representatives
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Huffman and Ranking Member McClintock:

The Coachella Valley Water District (CVWD), together with other California water agencies, has been a strong supporter of the Colorado River Basin Drought Contingency Plan (DCP). The process took a significant step forward with the recent signing ceremony held on March 18, 2019 between the seven Colorado River Basin states and the Bureau of Reclamation to advance the package of negotiated agreements in consideration for federal legislation.

However, the work is not yet complete, and CVWD respectfully requests your consideration and favorable vote on the required legislation in order to authorize the Secretary of the Interior to execute four DCP agreements and to carry out their provisions regarding the operations of Colorado River System reservoirs.

The seven Basin states have had a long history of managing the Colorado River in a collaborative fashion to ensure reliable water supplies for over 40 million people throughout the basin. The DCP's strength lies in its foundation as a consensus-based document, achieved over years-long negotiations among the Basin states and Reclamation. Under the DCP, water curtailment actions to users may be avoided through additional conserved water stored in Lake Mead, electrical power will continue to be generated in Lake Powell as a result of the preservation of water elevation levels, and states are able to mitigate the effects of the poor hydrology within their borders through the additional water management actions.

The legislation is purposefully narrow and specifically tailored to give the Secretary the authority to implement the DCP without altering or disregarding the water rights of any user along the river. The legislation also recognizes that the proposed actions do not override the environmental review process. In fact, the proposed modified operations under the Lower Basin DCP are among the environmental alternatives that were analyzed (through the NEPA process) for the 2007 Record of Decision on "Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead."

While California is officially out of drought for the first time in seven long years thanks to the abundant rains and snow the state has received over the winter months, weather patterns are no longer predictable and a return to drought is a very real possibility. The additional operational rules created under the Lower Basin DCP will incentivize Lower Basin water contractors to store additional conserved water in Lake Mead, which will buffer against the possibility of delivery curtailment in another dry year.

The water users in the seven Basin states have entrusted their representatives to craft a framework that was good for the entire Colorado River Basin. The DCP is exactly that, and we ask for your consideration and favorable vote for the required legislation. If you have any questions regarding the agreements or Coachella Valley Water District's support of the agreements, please do not hesitate to reach out to me directly at (XXX) XXX-XXXX or at XXXXXXXXXXXX. CVWD looks forward to working with you and the other members of our delegation to secure passage of this important legislation.

Sincerely,

J.M. BARRETT,
General Manager.

PREPARED STATEMENT OF DENNIS PATCH, CHAIRMAN
 COLORADO RIVER INDIAN TRIBES, PARKER, ARIZONA

Honorable Chairman Huffman, Ranking Member McClintock, Members of the Committee: thank you for the opportunity to submit testimony for the record in support of the Drought Contingency Plan (DCP).

The Colorado River Indian Tribes (CRIT) have been an active participant in the DCP deliberations in the State of Arizona. We support enactment of legislation authorizing the Secretary of the Interior to sign and implement the DCP Agreements. We urge this Committee to provide the Department with this authority without delay.

The Colorado River Indian Tribes

The Colorado River Indian Reservation was created by an Executive Order in 1865 issued by President Abraham Lincoln. We are located on 300,000 acres of land between the city of Blythe, California and town of Parker, Arizona. Our reservation stretches along roughly 40 miles of the Colorado River and includes land in both Arizona and California. Our water rights are Present Perfected Rights to divert 719,000 acre-feet in both Arizona and California. Ours will be the last rights to be cut during shortages on the River.

The cultural heritage of our tribe is unique. Our membership contains individuals from the indigenous Mohave and Chemehuevi Peoples, as well as individuals of Navajo and Hopi descent.

The main economic driver on the Reservation is agriculture. Today, CRIT Farms, our tribal enterprise, farms approximately 15,000 acres with current crops of alfalfa, wheat, cotton and produce. CRIT tribal members and non-Indian tenants farm another 55,000 to 60,000 acres each year, for a total of more than 73,000 acres in production on our reservation at any given time.

We are concerned about the impact of nearly two decades of drought on the life of the River. The River has always sustained the Mohave and Chemehuevi People and we are doing all that we can to help preserve the River. We have participated in multiple contracts with Reclamation to store water in Lake Mead under the Pilot System Conservation Agreement. This water is "created" for the Lake by paying us to fallow farm lands. The money for this program is provided by Reclamation, Central Arizona Water Conservation District (CAWCD), Metropolitan Water District (MWD), Southern Nevada Water Authority (SNWA), and Denver Water.

In 1995, we created the Ahakav Preserve along the River. We replanted more than 1,400 acres with native trees, restored the riparian habitat, and developed approximately 250 acres of backwaters for endangered fish and other native aquatic plants and animals. We also maintain a large mesquite bosque at the southern end of the Reservation that is vital for the preservation of Mohave culture.

In addition, we restored the 12 Mile Lake, and No Name Preserves on the River shoreline, doubling the amount of land in conservation on the Reservation.

CRIT and the DCP

As the drought in the West grows more severe, and Lake Mead levels fall dangerously close to the first level of cuts, it was clear that we needed to do more. The River, which has protected our people for so many generations, now needs all of us.

At CRIT, discussions started more than four years ago. We met with major stakeholders, participated in the water meetings organized by Governor Ducey in 2017, and the Stakeholder Group lead jointly by the Arizona Department of Water Resources and the CAP. It was this group that eventually reached the agreement this committee is currently considering.

The DCP calls for reducing water deliveries to CAWCD water users by 512,000 acre-feet at a Tier 1 shortage. This was never going to be easy. But thanks to the strong leadership of Arizona's water leaders, we forged a plan that everyone can live with.

I am proud to say that the Colorado River Indian Tribes played a vital role in this process. We will leave 150,000 acre-feet of our consumptive use in Lake Mead for System Conservation over the next three years. This will be available by fallowing at least 10,000 acres of farm land each year for three years. Additionally, we will create 20,000 acre-feet of Intentionally Created Surplus (ICS) to provide the State of Arizona and CAP assurances that water deliveries to the Lake will match our commitments.

Unlike other tribes in the State of Arizona, who's water rights are confirmed in congressionally enacted water settlements, CRIT does not have the authority to lease water. This flexibility would be a significant asset to CRIT and the entire State of Arizona. I expect that we will be working with this Committee to craft legislation addressing this added benefit for the basin in the near future.

Conclusion

I am proud to have been part of the work accomplished by the DCP Stakeholders in Arizona. In the coming weeks, this Committee has the opportunity to approve the years of collaborative work that went into this agreement, and it is my hope that you will do so as quickly as possible. The River depends on this and we as the River People depend on your actions.

Thank you for your consideration, and I appreciate the opportunity to share the views of the Colorado River Indian Tribes on this important matter.

DENVER WATER
DENVER, COLORADO

March 25, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
Natural Resources Committee,
U.S. House of Representatives
1324 Longworth House Office Building,
Washington, DC 20515.

Re: Colorado River Basin Drought Contingency Plans (DCP)

Dear Chairman Huffman and Ranking Member McClintock:

I am writing to join many others in support of the Colorado River Basin States Colorado River Basin Drought Contingency Plans. Denver Water urges immediate action by Congress to authorize the implementation of the DCP.

Denver Water proudly serves high-quality water and promotes its efficient use to 1.4 million people in the city of Denver and many surrounding suburbs. Established in 1918, the utility is a public agency funded by water rates and new tap fees, not taxes. It is Colorado's oldest and largest water utility.

Over the last 19 years, sustained drought conditions have caused vital Colorado River system reservoirs to approach critically low elevations, threatening severe shortages to significant urban and agricultural economies as well as the environment. Approximately half the water supply of the Denver metropolitan area is derived from the Colorado River basin. This water supply is at risk unless the seven Colorado River basin states take immediate steps to ensure system reservoirs are maintained above critically low elevations.

The basin states have taken these steps. Through intense public processes and discussion, the basin states developed the DCP, which is broadly supported throughout the basin as absolutely and immediately necessary to protect the economies and the environment dependent on the Colorado River and its tributaries. And now Congress must act.

It is particularly important the DCP goes into effect immediately, without delay. The DCP must be in place before August, when the Department of Interior begins its reservoir operations planning for 2020. The legislative language proposed by the basin states will ensure this happens.

Thank you for your leadership in moving this important legislation forward.

Sincerely,

JAMES S. LOCHHEAD,
CEO/Manager.

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,
LOS ANGELES, CALIFORNIA

March 25, 2019

Hon. JARED HUFFMAN, *Chairman*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Committee on Natural Resources,
Subcommittee on Water, Oceans and Wildlife,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Huffman and Ranking Member McClintock:

The Metropolitan Water District of Southern California (Metropolitan) owns and operates the Colorado River Aqueduct and serves Colorado River water, as one of two sources of imported supplies, to a service area of 19 million residents throughout Southern Coastal California. Given the importance of Colorado River water in our service area, Metropolitan strongly supports Congress taking action to enact legislation memorializing the terms of the Seven Colorado River Basin State Drought Contingency Plan Agreements (DCPs) in a manner that facilitates implementation of the DCPs this year. Metropolitan actively participated in development of the Lower Basin DCP and believes that the DCPs represent exactly the sort of cooperative efforts of all seven Colorado River Basin states working collaboratively to manage this important shared resource that we strive for as a Basin.

The seven Basin states and contractors, like Metropolitan, developed the DCPs with input from stakeholders throughout the basin, including tribal and environmental leaders, to significantly reduce the risk of Lake Powell and Mead falling below critical elevations by incentivizing conservation and increased water storage in Lake Powell and Lake Mead. Metropolitan's 38-member board voted unanimously to authorize Metropolitan to step in and be responsible for meeting California's DCP Contributions, even if other California contractors decide not to participate in the Lower Basin DCP. Taking this step enabled Metropolitan to meet the important goals of safeguarding the district's Colorado River supplies and meeting the deadline for DCP completion established by the Commissioner of the Bureau of Reclamation.

Implementation of the DCPs will build on existing environmental compliance to protect water supplies, while preserving existing water rights and respecting environmental resources. Metropolitan stands by the testimony of the Colorado River Board of California, as submitted for the record in connection with the need to advance congressional authorizing legislation on this critical issue.

It is our recommendation that under your leadership, Congress will move forward with the steps necessary to introduce and expedite the terms of the Seven Colorado River Basin States Drought Contingency Plans by enacting legislation to address this urgent matter as soon as possible during the 116th Congress.

Sincerely,

JEFFREY KIGHTLINGER,
General Manager.

NATIONAL WATER RESOURCES ASSOCIATION,
WASHINGTON, DC

March 26, 2019

Hon. RAÚL GRIJALVA, *Chairman*,
Hon. ROB BISHOP, *Ranking Member*,
House Natural Resources Committee

Hon. LISA MURKOWSKI, *Chairman*,
Hon. JOE MANCHIN, *Ranking Member*,
Senate Energy & Natural Resources Committee

Chairmen Grijalva and Murkowski, Ranking Members Bishop and Manchin:

On behalf of the National Water Resources Association (NWRA) I write today to echo the March 19th request of the seven States of the Colorado River Basin (Basin States) to support legislation directing the Secretary of the Interior (Secretary) to implement the drought contingency plans (DCPs) agreed to by the Basin States. NWRA also agrees with the Basin States that this legislation should implement the DCPs without granting any additional authority to the Secretary. We respectfully request that this legislation be passed with haste so that the DCPs can be implemented by April 22, 2019. The language agreed to by the Seven Basin States is attached for reference.

The NWRA is a nonprofit federation made up of agricultural and municipal water providers, state associations, hydropower producers, and individuals dedicated to the conservation, enhancement and efficient management of our nation's most important natural resource, water. Our members provide water to more than 50 million Americans, millions of acres of irrigated agricultural. This water is critical to the health of our communities and our economy. NWRA has members in each of the seven basin states, and we recognize the critical importance of the Colorado River and the water it provides to almost 40 million people. The Colorado River continues to weather a long-term drought that is projected to continue even with above average precipitation in some basin states this year. If recent conditions persist, as projected, Lake Powell and Lake Mead could see critically low levels as early as 2021.

Recognizing the challenges of managing the Colorado River, the Basin States have worked collaboratively to develop the DCPs in a manner that will benefit water users and the environment. The DCP's are consistent with existing environmental laws including the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).

Reliable water supply is essential to the health and well being of all Americans. We thank you for your efforts to ensure the DCP authorization moves forward in a timely manner. NWRA stands ready to assist you in this work.

Sincerely,

IAN LYLE,
Executive Vice President.

**ATTACHMENT
PROPOSED LEGISLATION**

SEC. ___ COLORADO RIVER BASIN DROUGHT CONTINGENCY PLANS

(a) Notwithstanding any other provision of law directly related to operation of the applicable Colorado River System reservoirs, upon execution of the March 19, 2019 versions of the Agreement Concerning Colorado River Drought Contingency Management and Operations and the agreements attached thereto as Attachments A1, A2 and B, by all of the non-federal parties thereto, the Secretary of the Interior shall, without delay, execute such agreements, and is directed and authorized to carry out the provisions of such agreements and operate applicable Colorado River System reservoirs accordingly; provided, that nothing in this section shall be construed or interpreted as precedent for the litigation of, or as altering, affecting, or being deemed as a congressional determination regarding, the water rights of the United States, any Indian tribe, band, or community, any state or political subdivision or district thereof, or any person.

NORTHERN COLORADO WATER CONSERVANCY DISTRICT,
BERTHOUD, COLORADO

March 26, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans and Wildlife,
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Re: Colorado River Basin Drought Contingency Plans (DCP)

Dear Chairman Huffman and Ranking Member McClintock:

I am writing on behalf of the Northern Colorado Water Conservancy District and its Municipal Subdistrict to join many others in support of the Colorado River Basin States Drought Contingency Plan (DCP). Northern Water urges immediate action by Congress to authorize the implementation of the DCP.

Northern Water, a public agency created in 1937, and its Municipal Subdistrict, an independent conservancy district formed in 1970, provide water for agricultural, municipal, domestic and industrial uses to an eight-county service area in Northeastern Colorado. Northern Water and the U.S. Bureau of Reclamation jointly operate and maintain the Colorado-Big Thompson Project. The Municipal Subdistrict operates the Windy Gap Project. Both projects collect water at the headwaters of the Colorado River and deliver it to Northeastern Colorado through a 13-mile tunnel beneath Rocky Mountain National Park. Northern Water and the Municipal Subdistrict deliver water to more than 120 ditch, reservoir and irrigation companies serving more than 640,000 acres of irrigated agriculture and to municipal and domestic water providers that serve a population of about 980,000 in Northeastern Colorado.

Drought conditions in the Colorado River basin have caused vital Colorado River system reservoirs to approach critically low levels. Declining reservoir levels threaten the water supplies for 40 million people and their significant urban, agricultural and recreational economies and the environment. This water supply is at risk unless the seven Colorado River basin states take immediate steps to ensure system reservoirs are maintained above critically low elevations.

The Colorado River basin states' stewardship of water resources is fundamental to a sustainable water future for all. The DCP was developed through a collaborative and cooperative effort among the states and stakeholders that transcends political and geographic boundaries. The proposed federal legislation and implementation of the plans will enable actions to conserve Colorado River water and provide the states with water management tools to address declining levels in Colorado River system reservoirs.

Northern Water and its Municipal Subdistrict request your support of the DCP and legislation currently proposed by the seven states of the Colorado River basin. It is particularly important the DCP goes into effect immediately, without delay.

Thank you for your leadership on this critically important issue.

Sincerely,

BRADLEY D. WIND, P.E.,
General Manager.

PALO VERDE IRRIGATION DISTRICT,
BLYTHE, CALIFORNIA

March 26, 2019

Hon. JARED HUFFMAN, *Chairman*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
House Committee on Natural Resources
Subcommittee on Water, Oceans and Wildlife,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Huffman and Ranking Member McClintock:

The Palo Verde Irrigation District (PVID) is writing this letter to offer our strong support for the Seven Colorado River Basin States (Basin States) Drought Contingency Plan (DCP). PVID has the most senior entitlement to water of the Colorado River, by virtue of having the first priority to Colorado River water in California, that itself holds the most senior rights to Colorado River water.

Given the importance of the Colorado River water to the agriculture and the residents of the Palo Verde Valley, we support the DCP. PVID actively participated in development of the Lower Basin DCP and believes that the DCP represent the appropriate efforts of all seven Basin States working collaboratively to manage this important shared resource during the extended drought conditions that we presently face.

The Seven Basin States and contractors, including PVID, developed the DCP with input from stakeholders throughout the basin, including tribal and environmental leaders, to significantly reduce the risk of Lake Powell and Mead falling below critical elevations by incentivizing conservation and increased water storage in Lake Powell and Lake Mead. Implementation of the DCP will build on existing environmental compliance to protect water supplies, while preserving existing water rights and respecting environmental resources.

It is our recommendation that Congress should move forward to embrace the terms of the Drought Contingency Plans by working with the Basin States to further refine the "Law of the River" by enacting the legislation as offered by the seven Colorado River Basin States.

Sincerely,

NED HYDUKE,
General Manager.

BOARD OF WATER WORKS OF PUEBLO, COLORADO
PUEBLO, COLORADO

March 26, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
House Committee on Natural Resources

Hon. MARTHA MCSALLY, *Chairman*,
Hon. CATHERINE CORTEZ MASTO, *Ranking Member*,
Water and Power Subcommittee,
U.S. Senate Committee on Energy & Natural Resources

Re: Federal Legislation for Colorado River Drought Contingency Planning

Dear Chairs and Ranking Members:

I am writing to urge immediate action by Congress to authorize Colorado River Basin Drought Contingency Plans.

The continuing 19-year drought across the entire Colorado River Basin has resulted in a state of crisis for water supplies on this river that provides drinking water to over 40 million people and sustains 5.5 million acres of irrigated agriculture in the seven basin states. All these uses of Colorado River water are at immediate risk as a result of the drought.

The municipal water utility I currently lead, Pueblo Water, is not physically located within the Colorado River Basin. However, roughly half the water we treat and supply to our 120,000-plus residents, businesses and industries originates in the Colorado basin and comes to Pueblo via transmountain diversion. Hence, any supply shortage on the Colorado River due to this drought emergency will have a direct impact on our system and our customers.

The basin states of Colorado, New Mexico, Utah, Wyoming, Arizona, California and Nevada have addressed this critical situation by developing the Drought Contingency Plans (DCPs) that will prevent basin reservoirs from falling below critical operational levels. The plans were developed with broad support across all basins and need to be implemented without delay in order to prevent severe water shortages to both urban and agricultural economies, as well as long-term harm to the environment.

The federal legislation proposed by the seven basin states will enable the states to take immediate action in accordance with the DCPs to address this crisis for the benefit of all. It is essential for this legislation to be enacted by Congress and implemented by the states without delay.

Thank you for your action on this critically important issue.

Sincerely,

SETH CLAYTON,
Executive Director.

SALT RIVER PROJECT (SRP),
PHOENIX, ARIZONA

March 25, 2019

Hon. RAÚL GRIJALVA, *Chairman,*
Hon. ROB BISHOP, *Ranking Member,*
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Grijalva and Ranking Member Bishop:

I write to express the Salt River Project's (SRP) support of the Colorado River Drought Contingency Plan (DCP) implementing legislation submitted to Congress by the seven Colorado Basin States on March 19th.

SRP was formed to contract with the federal government for the building of Theodore Roosevelt Dam, and other components of the Salt River Federal Reclamation Project. Today SRP operates seven dams and reservoirs throughout Arizona, 1,300 miles of canals, laterals, ditches, and pipelines to deliver water from the Salt and Verde Rivers to approximately 250,000 acres of land in the greater Phoenix area. We also operate and have interests in a variety of electrical generation facilities within Arizona. Although SRP does not rely on the Colorado River for our water supply, Colorado River water plays such a central role in Arizona's economy that all of us are impacted by uncertainty, and will benefit from this important agreement and implementing legislation.

Successful implementation of the DCP within Arizona could have only been achieved through a broad stakeholder-driven process. SRP was an invited and active participant in that process through the Arizona DCP Steering Committee. Our continued commitment to the plan can be demonstrated by SRP's commitment of mitigation water through a DCP exchange with the Central Arizona Project. SRP appreciates your leadership to address Colorado River drought, and urges the prompt passage of the legislation necessary to implement the DCPs.

Sincerely,

DAVID C. ROBERTS,
Associate General Manager-Water Resources.

PREPARED STATEMENT OF DAN DENHAM, ASSISTANT GENERAL MANAGER
SAN DIEGO COUNTY WATER AUTHORITY

Chairman Huffman, Ranking Member McClintock and members of the Subcommittee, I am Dan Denham, assistant general manager of the San Diego County Water Authority (the "Water Authority"). Thank you for the opportunity to provide the views of the Water Authority in support of the Drought Contingency Plan (DCP) for the Colorado River. The Water Authority urges this Subcommittee to pass federal legislation authorizing the DCP as soon as possible.

Role of the Water Authority

As a public agency created in 1944, the Water Authority is one of the nation's largest water agencies, delivering wholesale water supplies to 24 retail water providers, including cities, special districts and Marine Corps Base Camp Pendleton. Today, most of the region's water is imported from its long-term water conservation and transfer agreement with the Imperial Irrigation District, conserved water from projects that lined portions of the All-American and Coachella canals in Imperial Valley, and water purchased from the Metropolitan Water District of Southern California. The remaining water comes from local sources, including groundwater, local surface water, recycled water, and seawater desalination. Hence, Colorado River water is an important source of the water we deliver to sustain a \$231 billion regional economy and the quality of life for 3.3 million people. The clear majority of the region's residents realize that they live in a semiarid climate and view water-use efficiency as a civic duty. In support of this ethic, the Water Authority promotes ongoing efforts to improve water-use efficiency in homes, businesses and public places across the region and statewide through landmark conservation legislation. Since 1990, per capita water use in the San Diego region has declined by more than 40 percent. As a result, we now use far less water than we did three decades ago even though the population has grown by 900,000.

What the DCP will accomplish

The DCP is an effort by the seven Colorado River Basin States to prevent Lake Powell and Lake Mead from reaching critically low levels by agreeing to voluntary reductions in water delivery. People, farms, and businesses would be harmed if these reservoirs reached such low levels as to trigger severe delivery cuts. The DCP is a set of interlocking agreements: an Upper Basin DCP negotiated by Colorado, New Mexico, Utah, Wyoming and the U.S.; a Lower Basin DCP negotiated by Arizona, California, Nevada and the U.S.; and a complementary agreement which connects these two programs and links them to Mexico through a US-Mexico agreement. By negotiating and approving the DCP, the Basin States are agreeing to voluntarily reduce Colorado River water deliveries if reservoir levels decline to certain predetermined levels.

The DCP builds on the operating experience and scientific information developed through the 2007 Interim Shortage Guidelines ("2007 Guidelines"). The 2007 Guidelines were the first mechanism the Basin States adopted to formally address the risk of shortage on the Colorado River. They introduced the concept of Intentionally Created Surplus (ICS), which is a pool of water in Lake Mead created by Lower Basin Contractors through water conservation. Water stored as ICS is available for later delivery to the Contractor that created the ICS. Storage of ICS water in Lake Mead can significantly reduce the risk of shortage to the Colorado River Basin by maintaining water levels above reservoir elevations that trigger mandatory cutbacks. Furthermore, the ICS program promotes efficient use of water resources because it provides a low-cost storage option that incentivizes leaving water in the river for later use.

The Water Authority believes the ICS mechanism has great potential to build elevation in Lake Mead and simultaneously to improve the reliability of regional water supplies. Due to several significant conservation measures funded by the Water Authority, we currently have 333,700 acre-feet (AF) of ICS eligible supplies, however, we do not yet have an ICS account. This eligible volume is anticipated to eclipse 400,000 AF in the near future as additional supplies come on line. We look forward to working with Section 5 Contractors and Reclamation to store some portion of San Diego County's supplies in Lake Mead under the ICS program and provide a benefit for the entire Southwest.

In December 2018, Bureau of Reclamation Commissioner Brenda Burman addressed the Colorado River Water Users Association and noted that Lake Powell's and Mead's combined storage was only 46% of capacity, the lowest level since 1966. The persistence and intensity of the current drought have driven home the risk of reaching critically low levels of storage in this system. It has become imperative

that the Basin States find more ways to promote conservation and stabilize the river. The DCP's agreed-upon reductions in deliveries will help achieve these goals.

Conclusion

The Water Authority applauds the tireless efforts by each of the seven Colorado River Basin States and the Bureau of Reclamation that culminated in the DCP. The DCP agreements are vital to managing risk on the Colorado River. Agreed-upon drought operations allow water agencies to predict future deliveries with greater confidence, helping us to improve efficiency and to plan with greater accuracy. The DCP will mitigate the impacts of shortages on our economies and the environment. The Water Authority is pleased to support the enactment of federal legislation that is needed for the DCP to come into effect. Please do not hesitate to contact me if you have any questions or the Water Authority can assist in any way with the Subcommittee's consideration of authorizing legislation for the DCP.

PREPARED STATEMENT OF THOMAS TORTEZ, JR., TRIBAL COUNCIL CHAIRMAN
TORRES MARTINEZ DESERT CAHUILLA INDIANS

Chairman Huffman, Ranking Member Lamborn, and Members of the Subcommittee, thank you for holding today's hearing on the Colorado River Drought Contingency Plan. I am Thomas TorteZ, Chairman of the Tribal Council for the Torres Martinez Desert Cahuilla.

While I support local, state, and Federal cooperation to resolve water allocation and management challenges in the Colorado River Basin, I oppose a problematic provision in the current drought contingency plan legislation that the Bureau of Reclamation has been advocating. It would require water management and operations decisions for the Colorado River Basin to be made and executed "[n]otwithstanding any other provision of law," "without delay." If Congress passes the legislation as drafted, this provision would set a harmful precedent by granting the Administration a powerful blank check to waive all environmental laws that relate to its decisions on water in the Colorado River Basin. And sadly, it could be used to write yet another chapter in the U.S. Government's long history of disregarding its trust responsibility to protect tribal treaty rights, lands, assets, and resources.

The Torres Martinez Tribe respectfully reminds this committee that for nearly a century before the current attempt to avoid public responsibility, the federal government has continued to ignore its promises to address tribal land ownership inequities created by the federal government at the Salton Sea.

On a positive note, I understand that your Committee may be working to address these concerns and improve the DCP legislation, and I stand ready to assist you in that effort.

The Torres Martinez Desert Cahuilla Indians are the largest private landowner of property in and around the Salton Sea. This is our aboriginal homeland and it must be protected now and for future generations. Because the health of the Salton Sea is vital to those future generations' health and welfare, the Tribe has steadfastly led efforts to protect and restore the Sea. Although I am submitting today's testimony in my capacity as Chairman of the Tribal Council for the Torres Martinez Desert Cahuilla, I also serve as President of the Salton Sea Authority Board of Directors. The Salton Sea Authority is a joint authority of local and tribal governments engaging in successful state and Federal partnerships to restore the Sea and prevent serious threats to human health, the environment, and regional economy.

The Salton Sea is the largest lake in the California. It is the modern incarnation of Lake Cahuilla, a prehistoric, intermittent freshwater sea that filled and evaporated multiple times over thousands of years as the Colorado River meandered on its delta between emptying into the Gulf of California or diverting northwest into the Salton basin. Its latest incarnation was created in 1905 by a breach in an irrigation canal from the Colorado River, and since then it was maintained by agricultural runoff from the Imperial and Coachella valleys. It is a vital stop for migratory birds on the Pacific Flyway and was the top tourist destination in California in previous decades.

Following a 2003 agreement to transfer water to San Diego, agricultural irrigation and runoff in the Imperial Valley and Coachella Valley were reduced in 2017, and the Sea has been receding rapidly. Lowering water elevations and rising salt concentrations at the sea pose harm to human health, ecosystem habitat, and economic opportunities for communities around the Sea. Without action, contaminated dust

from the exposed lakebed threatens to create an air pollution and health disaster for the Tribe and the entire region. Local residents at the Sea, including members of the Torres Martinez Desert Cahuilla, are regularly hospitalized for asthma conditions at twice the national average.

Through cooperation and consultation among private landowners and Tribal, local, and state governments, we have begun to make progress addressing the Sea's challenges and restoring it as a vital resource. In partnership with the Salton Sea Authority and the California Department of Water Resources, the Torres-Martinez Tribe has developed and completed an 85-acre wetland pilot project at the mouth of the Whitewater River, where it enters the Sea. We are working with our partners to expand on this example of successful restoration along the Sea's perimeter. Recent advances include:

- In June 2018, California voters approved Proposition 68, which provides \$200 million toward projects that will accelerate progress at the Salton Sea, including \$30 million for the Salton Sea Authority, and \$170 million to the California Natural Resources Agency for a 10-year plan to deploy habitat and dust suppression projects.
- In December 2018, Imperial County and Riverside County signed an historic agreement to work more closely together on complementary infrastructure investments that will accelerate the pace of progress restoring lake and wetlands habitat along the perimeter of the Salton Sea.

If the Federal government matched these state and local commitments, it would place the Salton Sea and surrounding communities firmly on a path toward a healthy and successful future.

The Federal government owns nearly half of the land in and around the Salton Sea, and Federal partnerships are critical to improving conditions at the Sea. The Federal government also has trust responsibilities to protect the Tribe's treaty rights, lands, and resources. In 2016, the U.S. Department of the Interior entered into a Memorandum of Understanding with the State of California that included commitments to strengthen cooperation and complement state, local, and tribal efforts to restore the Salton Sea.

Unfortunately, the Federal government has been inconsistent in following through on its obligations and responsibilities to the Salton Sea and the region. The U.S. Department of Agriculture has supported collaborative work with agricultural producers to benefit the Sea through its Regional Conservation Partnership Program, which we hope to expand under the 2018 Farm Bill. On the other hand, we have seen little follow-through by the Interior Department on its 2016 agreement to step up as an important partner. And now, problematic language in the proposed legislation could be used to repudiate many Federal responsibilities to the Sea altogether. We encourage Congress to reject the current provision that would waive all laws that protect the environment and Federal responsibilities to tribal nations. Instead, Congress should demand and require that the Federal government work with state, local, and tribal partners to resolve challenges in managing the Colorado River while also fulfilling its responsibility to protect the Salton Sea and honor its trust responsibilities to tribal nations.

TRUCKEE-CARSON IRRIGATION DISTRICT
FALLON, NEVADA

March 27, 2019

Hon. RAÚL GRIJALVA, *Chairman*,
Hon. ROB BISHOP, *Ranking Member*,
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Hon. LISA MURKOWSKI, *Chairman*,
Hon. JOE MANCHIN, *Ranking Member*,
Senate Committee on Energy and Natural Resources,
304 Dirksen Senate Office Building,
Washington, DC 20510.

Chairman Murkowski, Chairman Grijalva, Ranking Member Manchin, and Ranking Member Bishop:

On behalf of the Truckee-Carson Irrigation District (District), in Fallon, Nevada, I here express support for the request made by the seven States of the Colorado River Basin (Basin States) for legislation directing the Secretary of the Interior (Secretary) to implement the Drought Contingency Plans (DCPs) agreed to by the Basin States. We believe, as has been expressed by the Basin States, that this legislation should implement the DCPs without granting additional authority to the Secretary. We urge timely passage of this legislation so that the DCPs may be implemented by April 22, 2019. The language agreed to by the Seven Basin States is attached hereto for your reference.

The District is a political subdivision of the State of Nevada and is a member of the National Water Resource Association (NWRA). We actively work with the NWRA and its members in support of measures that will result in better management and use of our most valuable resource: Water! The NWRA has members in each of the seven basin states—including Nevada. The importance of the Colorado River to our state cannot be understated! In total, the River provides water to as many as 40 Million people—including residents of Las Vegas.

Of extreme importance to us now is the fact that the entire river system continues in a long-term state of drought; and, in view of continuing conditions of such drought, Lake Powell and Lake Mead may be subject to critical low levels as early as 2021.

We believe that the Basin States have achieved DCPs that address multiple concerns including compliance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).

Thank you for your consideration in this matter.

Best Regards,

RUSTY D. JARDINE, ESQ.,
District General Manager.

ATTACHMENT

PROPOSED LEGISLATION

SEC. ___ COLORADO RIVER BASIN DROUGHT CONTINGENCY PLANS

(a) Notwithstanding any other provision of law directly related to operation of the applicable Colorado River System reservoirs, upon execution of the March 19, 2019 versions of the Agreement Concerning Colorado River Drought Contingency Management and Operations and the agreements attached thereto as Attachments A1, A2 and B, by all of the non-federal parties thereto, the Secretary of the Interior shall, without delay, execute such agreements, and is directed and authorized to carry out the provisions of such agreements and operate applicable Colorado River System reservoirs accordingly; provided, that nothing in this section shall be construed or interpreted as precedent for the litigation of, or as altering, affecting, or being deemed as a congressional determination regarding, the water rights of the United States, any Indian tribe, band, or community, any state or political subdivision or district thereof, or any person.

UPPER COLORADO RIVER COMMISSION
SALT LAKE CITY, UTAH

March 25, 2019

Hon. JARED HUFFMAN, *Chairman*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Re: Colorado River Basin Drought Contingency Plans (“DCPs”) Oversight Hearing

Dear Chairman Huffman and Ranking Member McClintock:

Thank you for your leadership in convening a hearing on the drought contingency planning efforts underway in both the Upper and Lower Colorado River Basins (“Upper” and “Lower Basins”, respectively) as reflected in the March 19, 2019, final draft DCP agreements provided to Congress. As Executive Director and Secretary, I represent the Upper Colorado River Commission (“UCRC”), an interstate water administrative agency established under the laws of the states of Colorado, New Mexico, Utah and Wyoming (the “Upper Division States”) and by Congress through the enactment of the 1948 Upper Colorado River Basin Compact (63 Stat. 31) (“1948 Compact”). The UCRC’s role serves to ensure the appropriate allocation of water from the Colorado River to the Upper Division States and to ensure water is provided to the Lower Division States of Arizona, California and Nevada and to the Republic of Mexico in accordance with the 1922 Colorado River Compact (45 Stat. 1057) (“1922 Compact”). The UCRC is comprised of one representative appointed by the Governor of each of the Upper Division States and one member appointed by the President to represent the United States. There is no equivalent to the UCRC in the Lower Basin.

The UCRC supports, without reservation, both the Upper and Lower Colorado River Basin DCPs, whose combined objective is to avoid falling below critical elevations in Lakes Powell and Mead. The risks facing the Colorado River resulting from almost 20 years of historically dry conditions are well-documented. Of particular concern is the potential for Lake Mead to plunge to a critically low level as early as 2021, further threatening elevations at Lake Powell. Accordingly, the UCRC urges your immediate support for federal legislation necessary to implement the DCPs as soon as possible.

The UCRC plays a central role in both the demand management and drought response operations elements of the Upper Basin DCP (“Agreement Regarding Storage at Colorado River Storage Project Act Reservoirs Under an Upper Basin Demand Management Program” and “Agreement for Drought Response Operations at the Initial Units of the Colorado River Storage Project Act”, respectively). Demand management is premised on water conserved, and subsequently stored and released at the direction of the UCRC, in order to satisfy the Upper Division States’ obligations under the 1922 Compact. The drought operations element, which will operate within the framework of existing environmental compliance, seeks to avoid falling below a critical elevation at Lake Powell through the development and implementation of drought response operations plans. The plans will require the participation of the UCRC in each phase of the drought response process.

The UCRC’s role in the Upper Basin DCP arises from its authorities under both federal law and the statutes of the signatory states to the 1948 Compact. These authorities include making findings as to the quantity of water in the Upper Colorado River above Lee Ferry used each year by each state signatory to the 1948 Compact; the quantity of water deliveries at Lee Ferry during each water year; and, the necessity for and the extent of the curtailment of use required, if any. See Articles IV and VIII (d) of the 1948 Compact. Both the demand management and drought response operations elements of the Upper Basin DCP seek to maintain reservoir elevations at Lake Powell sufficient to ensure continued compliance with the 1922 Compact. At the same time, both seek to avoid the specter of involuntary curtailment of uses by the Upper Division States should conditions deteriorate such that compact obligations may be jeopardized. As such, the dual purposes of the Upper Basin DCP directly impact the responsibilities of the UCRC. Moreover, while the UCRC is not itself a party to the interstate DCP agreements, the agreements will be executed by the Upper Division States through each of their Commissioners

to the Upper Colorado River Commission and, accordingly, will bind the UCRC to the terms of the agreements.

The UCRC appreciates the opportunity to express our unequivocal support for the Upper and Lower Basin DCPs and the enactment of federal legislation necessary for immediate implementation of the plans.

Very truly yours,

AMY I. HAAS,
Executive Director and Secretary

PREPARED STATEMENT OF MARK A. GABRIEL,
ADMINISTRATOR AND CHIEF EXECUTIVE OFFICER
WESTERN AREA POWER ADMINISTRATION

Since 2000, drought conditions in the Colorado River Basin have led to significant decreases in water storage in several key Colorado River reservoirs. The Seven Basin States, through their Commissions, are developing Drought Contingency Plans (DCP) (one for the upper basin, and another for the lower basin) to address the possibility of mitigating the reservoir levels at Lakes Powell and Mead from declining below critical elevations that would trigger water shortage provisions. Hydropower would also be impacted by shortages.

An agreement has been reached in the Upper Basin (Wyoming, Utah, New Mexico and Colorado). The primary goal of the Upper Basin strategy is to maintain sufficient water levels at Lake Powell during drought conditions to preserve water deliveries and power generation. Lake Powell is the largest reservoir and largest source of hydropower generation in the Upper Basin and singularly controls deliveries of Colorado River water to the Lower Basin. The Upper Basin States have agreed on a strategy that primarily calls for increased deliveries to Lake Powell by releasing water from higher elevation reservoirs, in excess of normal releases but consistent with all Records of Decision, to ensure Lake Powell remains above its dead pool level and water can be released. Shifting of water from different reservoirs may impact power generation ability in the higher reservoirs as well as impact water deliveries in subsequent years. Power from Lake Powell is delivered to 135 customers across Arizona, Colorado, New Mexico, eastern Nevada, Utah, and Wyoming. Power contracts extend through 2057.

The Lower Basin states (California, Nevada and Arizona) have had more difficulty reaching an agreement, particularly due to Arizona legislation and now concerns from the Imperial Irrigation District (IID) in California regarding funding for the cleanup of the Salton Sea. The Bureau of Reclamation Commissioner Brenda Burman required that an agreement be reached by January 31, 2019. Unfortunately this deadline was not met and additional pressure was set by the Commissioner via a Federal Register Notice requiring input from each State's Governor by March 19th. On March 18th the States satisfied this deadline by signing a letter of intent and agreement to sign the DCP in the following days, without IID's signature.

Lake Mead water releases in the lower basin are part of the Boulder Canyon project (Hoover Dam). WAPA is obligated to deliver wholesale energy to approximately 45 customers in southern California, Arizona, and Nevada, and the available capacity is highly dependent on the elevation of Lake Mead. If power is insufficient to support customer electrical capacity entitlements, each customer's capacity entitlement would be reduced or increased on a pro-rata basis to align with the available capacity at any given time. Electric service contracts provide for the marketing of power through September 30, 2067.

Water demands in the Lower Colorado River Basin and hydropower operations of the Parker-Davis Project (PDP) in Arizona are directly impacted by upstream releases from Hoover Dam. Power from the PDP is currently marketed to 37 customers in southern Nevada, Arizona and southern California, supplying the electrical needs of more than 300,000 people. All firm power contracts are effective through September 30, 2028.

WAPA is engaging with Reclamation and state representatives to represent hydropower interests in discussions about the drought contingency plan to fully understand the impacts on hydropower costs and the Colorado River Basins Power Marketing Fund. The focus of the interpretation of that data has been and will continue to be understanding the overall impact to the cost of hydropower if a DCP is triggered and for the subsequent years when recovering from drought mitigation measures.

THE WESTERN COALITION OF ARID STATES—WESTCAS
WASHINGTON, DC

March 27, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans and Wildlife,
House Committee on Natural Resources,
Washington, DC 20515.

Hon. MARTHA MCSALLY, *Chair*,
Hon. CATHERINE CORTEZ MASTO, *Ranking Member*,
Subcommittee on Water and Power,
Senate Committee on Energy and Natural Resources,
Washington, DC 20510.

Re: WESTCAS Support of enactment of the Colorado River Basin Drought Contingency Plan

Dear Chairmen Huffman and McSally and Ranking Members McClintock and Masto:

On behalf of the Western Coalition of Arid States (WESTCAS) we wish to express our strong support for the Colorado River Basin States Colorado River Basin Drought Contingency Plans (DCP) and we further wish to thank your respective subcommittees for the public hearing on this issue which you are holding in the Senate on March 27 and the House on March 28.

WESTCAS was formed in 1992 when water and wastewater service providers joined together to pool their talents and resources in support of the development of water programs and regulations. Our mission is to ensure adequate supplies of high quality water for those living in the arid west while also protecting the environment. The WESTCAS membership is located in the states of California, Arizona, Nevada, Colorado, New Mexico, and Texas.

We applaud and salute the Basin States, the U.S. Bureau of Reclamation, urban and agricultural water districts and the key water contractors for reaching agreement to establish a voluntary program for managing the critically important Colorado River system. WESTCAS urges the Congress to act swiftly to enact the necessary legislation to implement the DCP. Long-term drought conditions have caused a 130-drop in the water level of Lake Mead since the year 2000. If the annual water level reaches an elevation of 1,075 feet, about 15 foot lower than the current water level, an official shortage would be declared that would in turn trigger cuts in water delivered to Arizona and Nevada. A continuing decline in Lake Mead elevation to critical levels would have increasingly severe consequences for all the stakeholders.

WESTCAS believes that the DCP would help to address the challenges associated with drought in the Colorado River Basin. We appreciate your consideration to swiftly enact the DCP legislation. If you have any questions regarding these comments please do not hesitate to contact me at (XXX) XXX-XXXX, extension XXXX.

Sincerely,

STEVE BIGLEY,
President.

WESTERN STATES WATER COUNCIL
MURRAY, UTAH

March 22, 2019

Hon. JARED HUFFMAN, *Chair*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans & Wildlife,
House Committee on Natural Resources,
Washington, DC 20515.

Hon. MARTHA MCSALLY, *Chair*,
Hon. CATHERINE CORTEZ MASTO, *Ranking Member*,
Subcommittee on Water & Power,
Senate Committee on Energy & Natural Resources,
Washington, DC 20510.

Dear Chairs and Ranking Members:

The Western States Water Council (WSWC) was created by the governors to advise them on water policy issues. The WSWC is comprised of representatives appointed by the governors of eighteen western states. The mission of the WSWC is to foster cooperation among its member states, provide a forum for discussion of a broad spectrum of water resource challenges facing the West, and ensure that the West has an adequate, sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future.

Water is a scarce and precious resource in the West. Surface and groundwater supplies in many areas are stressed, resulting in a growing number of conflicts among users and uses. Effectively addressing these challenges requires collaborative, cooperative effort among states and stakeholders that transcends political and geographic boundaries. The WSWC has a long history of promoting drought preparedness, planning, and response programs in cooperation with federal agencies.

The Colorado River provides water to approximately 40 million people and 5.5 million acres of irrigated agriculture in the Upper Basin (Colorado, New Mexico, Utah, and Wyoming) and Lower Basin (Arizona, California, and Nevada). Since 2000, the Basin has experienced historically dry conditions and combined storage in Lakes Powell and Mead has reached its lowest level since Lake Powell initially began filling in the 1960s. Last year's runoff into the Colorado River was the second lowest since 2000, and there is no sign that the trend of extended dry conditions will end any time soon even if 2019 provides above average runoff. Lakes Powell and Mead could reach critically low levels as early as 2021 if conditions do not significantly improve. Declining reservoirs threaten water supplies that are essential to the economy, environment, and health of the Southwestern United States.

The States' primary stewardship over water resources is fundamental to a sustainable water future. The WSWC strongly encourages your support of the drought contingency plans and legislation currently proposed by the seven States of the Colorado River Basin to implement necessary actions in order to respond to the historic drought and ongoing dry conditions in the Colorado River Basin.

The proposed federal legislation and subsequent implementation of the plans will enable prompt action to enhance conservation of Colorado River water and provide the States with water management tools necessary to address a looming crisis. These tools will assist in reducing the probability that Lakes Powell and Mead will decline to critically low elevations, without sacrificing any existing environmental protections.

We thank you for your leadership on this critically important issue.

Sincerely,

TONY WILLARDSON,
Executive Director.

March 25, 2019

Hon. JARED HUFFMAN, *Chairman*,
 Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans and Wildlife,
House Committee on Natural Resources,
 1324 Longworth House Office Building,
 Washington, DC 20515.

Re: Colorado River Basin Drought Contingency Plans (DCP)

Dear Chairman Huffman and Ranking Member McClintock:

The Western Urban Water Coalition (WUWC) appreciates the opportunity to express its strong support for the Colorado River Basin Drought Contingency Plans (DCP) and commends the States, the Bureau of Reclamation, Tribal governments, and the key water contractors for achieving agreement through broad-based collaboration to establish a program for managing this vitally important river system. We urge Congress to act expeditiously to enact legislation to implement the DCP.

Established in 1992 to address the West's unique water supply and water quality challenges, the WUWC consists of the largest urban water utilities in the West, serving more than 40 million western water consumers in major metropolitan areas in seven Western states. WUWC includes the following urban water utilities:

- *Arizona*—Central Arizona Project, city of Phoenix and Salt River Project;
- *California*—Eastern Municipal Water District, Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, Santa Clara Valley Water District, and City and County of San Francisco Public Utilities Commission;
- *Colorado*—Aurora Water, Colorado Springs Utilities, and Denver Water;
- *Nevada*—Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority;
- *New Mexico*—Albuquerque Bernalillo County Water Utility Authority;
- *Utah*—Salt Lake City Department of Public Utilities; and
- *Washington*—Seattle Public Utilities.

The WUWC is committed to presenting a new and different perspective on the management of water resources in the modern West. The WUWC articulates the needs and values of Western cities to provide a reliable, high quality, sustainable urban water supply for present and future generations. As operators of public water supply systems, WUWC members serve the health, environmental, and economic needs of their communities around the clock and every day of the year. WUWC advocates for effective and practicable approaches to environmental protection programs at a time when water is becoming more scarce and critical to the economic growth, natural resource sustainability, and quality-of-life in the Western states. The DCP is a classic example of the importance of innovative and collaborative management of water resources to the sustainability and resilience of the infrastructure and economy of the West.

The WUWC is in strong support of federal legislation to implement the DCP. The WUWC has carefully tracked the development of this agreement over many years, and several of its members are major urban water supply utilities in the Upper and Lower Basin of the River who have participated in negotiations to develop the DCP that is now subject to your consideration. The Colorado River is essential to the economy and quality-of-life of these urban areas, and the sustained drought conditions on the River since 2000 are placing at risk the continued availability of drinking water to the tens of millions of residents of these cities, as well as other users. The WUWC urges Congress to act expeditiously to enact federal legislation to implement the DCP. We specifically support and request enactment of the legislative text (attached), which reflects the consensus provision developed by the seven Colorado River Basin states.

It is particularly important to put the DCP into effect immediately, without delay. The DCP has already gone through years of complex negotiation and review by all of the key stakeholders, and the basic impacts of implementation are known and overwhelmingly positive. Adding further layers of procedural review would not add any meaningful elements to the DCP, while depriving the Colorado River system of

critically important management measures that must be in place prior to the August 2019 determinations of operations for Lake Powell and Lake Mead in 2020. The DCP is the product of unprecedented collaboration, cooperation, and sacrifice among the many parties with interests in the Colorado, and the hard-won agreements that serve as the basis for the DCP could be undone if action is not taken now. Implementation of the DCP without delay has broad support by NGOs, including the strong support by American Rivers, the Environmental Defense Fund, the National Audubon Society, the Theodore Roosevelt Conservation Partnership and Trout Unlimited. Please support the DCP with congressional ratification, and in doing so, help ensure the long-term viability of the Colorado River system.

Thank you for the opportunity to provide this letter of support. If you have any questions regarding these comments, please contact me at XXX-XXX-XXXX or XXXXXXXXXXXX.

Very truly yours,,

DONALD C. BAUR,
National Counsel.

Attachment C to the Agreement Concerning Colorado River Drought Contingency Management and Operations (“Companion Agreement”)

PROPOSED LEGISLATION

SEC. ___ COLORADO RIVER BASIN DROUGHT CONTINGENCY PLANS

(a) Notwithstanding any other provision of law directly related to operation of the applicable Colorado River System reservoirs, upon execution of the March 19, 2019 versions of the Agreement Concerning Colorado River Drought Contingency Management and Operations and the agreements attached thereto as Attachments A1, A2 and B, by all of the non-federal parties thereto, the Secretary of the Interior shall, without delay, execute such agreements, and is directed and authorized to carry out the provisions of such agreements and operate applicable Colorado River System reservoirs accordingly; provided, that nothing in this section shall be construed or interpreted as precedent for the litigation of, or as altering, affecting, or being deemed as a congressional determination regarding, the water rights of the United States, any Indian tribe, band, or community, any state or political subdivision or district thereof, or any person.

Rationale for Proposed Legislation

This proposed legislation was developed by the seven Basin States, and water contractors within those states, working on a consensus-basis. Much like the Drought Contingency Plans (DCPs) themselves, it is the product of collaboration and compromise. The DCPs, when authorized by this proposed legislation, will enhance existing water management tools in order to address a looming water crisis in the Colorado River Basin. The seven-year term of the DCPs will also provide the opportunity for the Basin States, federal government and other key stakeholders to collaborate on a longer-term set of sustainable solutions for managing the Colorado River.

The proposed legislation is tailored to authorize and require the Secretary of the Interior to carry out the provisions of the DCPs, and to limit the Secretary’s authority to that which is necessary to carry out the flexible operational tools the states have developed. This legislation would grant no additional authority to the Secretary beyond congressional direction to implement the DCPs upon their execution by the parties. Furthermore, the proposed legislation and the DCP agreements themselves reserve and recognize each party’s existing rights and do not impact the rights of other water users or stakeholders with interests in the Colorado River.

To achieve compromise with regard to the proposed legislation, the Basin States, and water contractors within those states, had to assure that the DCPs respect the existing Law of the River, while providing for the flexibility found within the DCPs. For example, certain provisions of the Lower Basin DCP are inconsistent with some Parties’ interpretations of the Law of the River. Additionally, the Upper Basin DCP authorizes the ability to store water under an Upper Basin Demand Management Program should one be developed. To allow for full implementation of the DCPs, the proposed legislation requires their implementation notwithstanding any other

provision of law directly related to operation of the applicable Colorado River System reservoirs. Accordingly, through that provision, existing laws will not preclude DCP implementation.

The Parties developed the DCPs with a clear recognition of the environmental considerations associated with operating the applicable Colorado River System reservoirs. For example, the impacts of additional reduced deliveries of water consistent with what will occur under the Lower Basin DCP were previously evaluated as part of the Environmental Impact Statement associated with the 2007 Record of Decision on “Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead,” prepared pursuant to the National Environmental Policy Act (NEPA). Furthermore, the Upper Basin’s Drought Response Operations Agreement expressly provides that the action contemplated to protect target elevations at Lake Powell will operate within the framework of existing NEPA and Endangered Species Act (ESA) compliance, and other listed federal and state laws and regulations, for each of the Initial Units of the Colorado River Storage Project (CRSP) Act. Additionally, the Authorization for Demand Management Storage and the creation of a process to potentially use such storage as an element of the Upper Basin DCP do not affect existing NEPA or ESA compliance for the CRSP Act Initial Units.

The DCPs must also be implemented without delay. Immediate implementation of the Lower Basin DCP would benefit the Lower Basin. The new operational flexibility created by the Lower Basin DCP will enable Lower Basin water contractors to put Intentionally Created Surplus into storage this year, rather than needing to draw it down, helping preserve the level of Lake Mead. Determinations regarding reservoir operations for water year 2020 will be made in August 2019. Timely implementation is important with regards to contributions by the Republic of Mexico. Those contributions are conditioned upon the effectiveness of the Lower Basin DCP and will require several months to effectuate, potentially precluding Mexico’s participation in water year 2020 if the DCPs are not implemented by April 22, 2019. Moreover, implementation cannot begin until the agreements have been executed by all parties, which is predicated upon securing congressional legislation. It is the position of the Basin States, and water contractors within those states, that immediately enacting the proposed federal legislation and implementing the DCPs reduces the probability that Lakes Powell and Mead will decline to critically low elevations—which could occur as early as 2021—and promotes both domestic and binational participation in drought contingency planning.

IMPERIAL IRRIGATION DISTRICT,
IMPERIAL, CALIFORNIA.

April 11, 2019

Hon. JARED HUFFMAN, *Chairman*,
Hon. TOM MCCLINTOCK, *Ranking Member*,
Subcommittee on Water, Oceans and Wildlife,
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Huffman and Ranking Member McClintock:

I appreciate the opportunity to submit this statement on behalf of the Imperial Irrigation District (IID) for inclusion in the Oceans, Water and Wildlife Subcommittee hearing record on the Colorado River Drought Contingency Plan (DCP). My statement addresses key misstatements of fact made by several witnesses during the March 28, 2019, hearing regarding IID’s DCP participation, the DCP’s impacts on the Salton Sea and the question of whether existing environmental compliance documents anticipated DCP-related Salton Sea environmental or public health impacts. It also provides background on the importance and value of this national resource.

At the outset, it is important to note that with respect to the DCP, no other party has the authority to sign the agreements on behalf of IID. And, by virtue of IID’s exclusion from the DCP, the DCP agreement advanced by Congress on April 8, 2019, is missing 21 percent of the Colorado River’s delivered water and fails to address the greatest environmental challenge facing the entire river system. While IID is sincerely grateful that Congress rejected Reclamation and the Basin States’ efforts to eliminate federal environmental protections for the Salton Sea in the DCP

legislation, it is our strong view that a DCP that excludes both IID and the Salton Sea is deeply flawed and ultimately unsustainable.

We hope to work with you to expeditiously address the federal government's responsibility to partner with the state of California to address the public health and ecological crisis affecting the Salton Sea. It is only through advancing this important work that the sustainability of the Colorado River system can truly be assured.

Imperial Irrigation District and the Salton Sea

Established in 1911, IID is legally entitled to 3.1 million acre-feet (MAF) annually of Colorado River water, making it the largest water contractor on the Colorado River and the largest irrigation district in the nation. IID provides water to irrigate approximately 500,000 acres of highly productive farmland located in Imperial County, California, and also serves seven municipalities and a Navy base. IID has over 1,400 employees, maintains more than 3,000 miles of irrigation canals and drains, and operates extensive on-farm and system water conservation programs that generate more conserved water for the benefit of the Colorado River Basin (CRB) than any other single contractor.

Together, IID and the agricultural producers it serves have created over 5.3 million acre-feet of conserved water to ensure state and regional water supply reliability since the early 2000s.

IID has long been a willing and generous partner in CRB conservation efforts, but it is important to recognize that its Colorado River entitlement is its sole source of water and is absolutely vital to the economy of Imperial County, which ranks among the nation's top agricultural counties, with a gross production valued at over \$2 billion. IID's Colorado River entitlement sustains an agricultural industry that provides more than two-thirds of the winter vegetables consumed in the nation. The agricultural industry is key to Imperial County's economy—approximately 50 percent of employment opportunities are in this sector.

Cutbacks to agricultural production to benefit the water supply security of the CRB hurt our economy. Imperial County has a very substantial low-income population; 24.1 percent of the population falls below the poverty line, and the county's unemployment rate has fluctuated between 15.5 and 31.9 percent over the last decade—among the highest in the nation.

Water conservation efforts have also had very significant public health and environmental impacts in this community. The Salton Sea, California's largest lake, occupies approximately 370 square miles in Imperial and Riverside counties. The sea is sustained primarily by agricultural drainage flows from farmland served by IID. Since the early 2000s, inflows to the Salton Sea have been significantly affected by IID's voluntary water conservation efforts that have greatly benefited California and the CRB's water supply security.

Decreasing agricultural return flows to the sea have resulted in the exposure of emissive lakebed (playa), and have negatively impacted area air quality. The region is in severe non-attainment with federal air quality standards, and has the highest rate of childhood asthma and respiratory illness in California. Imperial Valley farmers bear the brunt of increasingly stringent air quality regulation. Poor air quality also has a negative impact on agricultural production, as dust and dried salts from the exposed playa blow on area crops.

The ecological significance of the Salton Sea is due largely to its habitat value for over 400 species of birds, including threatened and endangered species. According to the Bureau of Reclamation, the sea's "combination of avian biodiversity and importance as breeding habitat is unsurpassed." The Salton Sea is also a major stop-over on the 5,000-mile-long Pacific Flyway. Because over 90 percent of Southern California's wetlands have been lost to urban development, maintaining the bird habitat provided by the Salton Sea is crucial to the survival of migratory birds in the region.

But reduced inflows to the sea as the result of conservation efforts and drought have increased salinity levels of the sea to twice that of the Pacific Ocean, bringing it to the brink of ecological collapse. Reduced inflows have also resulted in a drop in elevation that has exposed more than 20,000 acres of barren salt-covered playa. Over the next decade, three times that amount of playa will be exposed, subjecting the region to worsening dust storms and increasing exposure to harmful air contaminants.

IID Considered and Approved the DCP Pending Satisfaction of Three Conditions

IID participated in DCP negotiations for four and a half years as a key contracting party and full partner. During these years of negotiations, IID was always

clear that its participation would depend on a 10-year roadmap for the Salton Sea, and a plan to fully fund it. During these negotiations, Reclamation assured the parties that there would not be a DCP unless all the contracting parties in each of the seven states participated in its development and approved the final negotiated package.

We would all cross the finish line together, or not at all.

While a witness at the March 28, 2019, hearing maintained that IID “never acted on or even put DCP on the agenda” for consideration, in fact, IID both considered and acted upon DCP-related agreements at a December 10, 2018 board meeting. IID also held four DCP workshops leading up to the December 10th, meeting.

At that board meeting, IID voted to support the DCP, but placed three conditions on its implementation. Those conditions were approving final DCP agreements as a package, securing a 1:1 federal funding match for completion of the state of California’s 10-year Salton Sea Management Program, and securing IID approval of proposed federal DCP legislation.

At Full Implementation, DCP Could In Fact Impact the Salton Sea

Several witnesses at the March 28, 2019, hearing testified that the DCP would not impact the Salton Sea, suggesting IID’s concerns about the DCP are misplaced. Our colleagues argued that since the DCP’s intra-state agreements provide for an IID contribution of 250,000 acre-feet toward California’s commitments—and IID has already conserved this water—the DCP will have no impact on the sea.

IID’s concern arises not from this 250,000 acre-feet commitment, conserved water that is largely stored today within The Metropolitan Water District of Southern California’s (MWD) system. Our issue stems with the DCP’s exclusive reliance on the seemingly inexhaustible water portfolio of MWD—an entity with a junior priority to Colorado River water. This might be fine when water is plentiful, as it is this year, but what about when water is not? The DCP, after all, is premised on the argument that we are facing a grim water supply future on the Colorado River—not an abundant one, due to record-breaking droughts and climate change.

MWD’s contributions toward California’s DCP obligations are projected to average approximately a half-million acre-feet. However, if the Colorado River hydrology continues to decline, those MWD commitments could require nearly 2 million acre-feet of conserved water.

Should unfavorable hydrologic conditions continue on the Colorado River, particularly if they occur in parallel with a California drought that decimates MWD’s access to Northern California water supplies, MWD will invariably turn to IID, once again, given IID’s position as the largest California Colorado River water contractor—and those additional demands for water from IID would impact the Salton Sea.

It is these potential Salton Sea impacts that are now being brushed off with pat predictions and empty promises as the system experiences a brief respite from drought with current snowpack improvements. In IID’s view, the Salton Sea would be far easier to deal with on the front end of this river-sharing pact, than at the back—when a true crisis reveals the MWD promise now at the heart of California’s DCP contributions to be one it can’t keep.

In 2003, IID was told that the Quantification Settlement Agreement (QSA), discussed below, would resolve Colorado River issues and bring “peace on the river” and to IID. Yet only a decade or so later, here we are again working at an urgent pace for a federal DCP that, at full implementation, will lead the Colorado River community back to IID’s doorstep—and threaten more harm to the Salton Sea.

State and Federal Failures to Fulfill Salton Sea Commitments Are Key to Understanding IID’s Salton Sea DCP Condition

IID and the Imperial Valley community have been there and done that on state and federal predictions and promises for the Salton Sea. Both the state of California and the federal government—particularly the Department of Interior—have a history of not keeping their promises when it comes to the Salton Sea. IID adopted the DCP condition for a 1:1 federal-to-state firm funding commitment for the Salton Sea because it has learned the hard way that the only way to truly protect this region is to require Salton Sea protections upfront.

While Interior likes to point to the state of California as the major transgressor in the story of the Salton Sea’s decline, Congress has long directed a role for Interior at the Salton Sea. That is due, in part, to the fact that the federal government is a major landowner of over 110,000 acres at the Salton Sea, and has tribal trust responsibilities to the Torres Martinez Desert Cahuilla Tribe, whose reservation occupies roughly 2,000 acres at the Salton Sea’s north end. It is also due to the fact that the Salton Sea is a national environmental resource.

As a result, Congress has repeatedly affirmed the federal interest in the Salton Sea, requiring Interior to develop Salton Sea Management Plans in 1992, 1998 and 2007. These efforts produced a succession of federal plans, but no concrete action.

The 2003 QSA and the failure of the state of California to fulfill its associated Salton Sea commitments—now 17 years later—also helps to explain why there is no time to waste and no risk that can be taken with respect to ensuring that the Salton Sea is addressed on the front end of any federal drought deal.

Under the Law of the River, California is entitled to use 4.4 MAF per year of Colorado River water, and IID holds senior rights to over 70 percent of that entitlement. For decades, the availability of surplus and unused water on the Colorado River allowed California to exceed this 4.4 MAF entitlement. Beginning in the late 1990s, as other states began to use their full Colorado River apportionment, the federal government pressed California to limit itself to its 4.4 MAF entitlement.

That effort posed a serious threat of reductions in deliveries to California users with water rights junior to IID's—most notably MWD. In 2003, IID entered into the QSA to address this crisis. The centerpiece of the QSA was a proposal that IID conserve water and arrange for its long-term transfer to the San Diego County Water Authority, Coachella Valley Water District and MWD. Through the QSA, IID, recognizing the needs of the entire state, agreed to extensive conservation—including following productive farmland.

All who participated in the QSA recognized that the transfers carried the potential for significant adverse environmental, economic and public health consequences at the Salton Sea and in the Imperial and Coachella valleys. There was no question in the minds of the parties that orchestrated the QSA water transfer—the largest in U.S. history—that without a commitment to ensure the Salton Sea would be restored and the other effects of the transfer mitigated, implementation of the QSA transfers would destroy the Salton Sea ecologically and result in disastrous public health consequences.

In order to address these concerns, the state of California committed to restore the Salton Sea, and the QSA parties—including IID—agreed to jointly assume the costs of QSA-related impacts. As a result, under the agreement, IID was required to deliver mitigation water to the Salton Sea for 15 years, until the end of 2017. It was believed by the parties that 15 years would be an adequate period of time to allow the State to study the feasibility of restoration, develop a plan and begin its implementation.

While the State studied concepts and crafted proposals to address its QSA obligations, it made no actual progress toward the fulfillment of its obligation for well over a decade. With no restoration plan or projects in place, the public health and ecological harm associated with the shrinking Salton Sea progressed. At the same time, IID honored all of its QSA obligations, to the great benefit of California urban water users and the Colorado River system as a whole. In 2014, anticipating the termination of mitigation water to the Salton Sea in 2017, IID filed a petition with the State Water Resources Control Board to force a solution.

In March 2017, this effort culminated in the state of California's Salton Sea Management Program (SSMP) Ten-Year Plan, which calls for roughly 30,000 acres of habitat and air quality measures to address the ecological crisis at the Salton Sea. The state of California has made roughly \$280 million available to implement its SSMP, over half the amount of the total funding required for plan completion. The first major effort called for in that plan—a 3,770-acre shallow water habitat project off the New River—is fully permitted and scheduled to break ground next year.

The state of California's QSA obligation and this recent progress, however, doesn't absolve Interior from its Salton Sea obligations as a landowner and tribal trustee, nor from planning for and addressing the potential impacts of a federal agreement like the DCP.

This obligation has, in fact, been the subject of negotiations and commitments in the context of the DCP.

But Interior failed to meet those commitments.

In 2016, in the context of efforts to reach agreement on the DCP, Interior and the California Natural Resources Agency (CNRA) negotiated a Memorandum of Understanding (MOU) wherein Interior pledged to become a full and active partner at the Salton Sea. In this agreement, Interior acknowledged its legal duties to follow federal environmental laws. It pledged to “pursue a multi-year partnership with USDA . . . to advance projects to protect air quality and improve water quality of major inflows to Sea habitat.” The intent of seeking this commitment with respect to USDA was to secure Interior's engagement in galvanizing additional support from USDA.

In the MOU, Interior further pledged to perform a federal funding analysis that would identify ways to meet the “anticipated financial need to reach acreage goals and creative means to meet them.” Finally, Interior pledged to dedicate a senior level official and convene a Salton Sea Working Group tasked with ensuring MOU implementation and expediting permitting processes at the Sea.

Interior failed to fulfill *any* of these commitments.

In 2017, Senators Feinstein and Harris, and Congressmen Ruiz and Vargas together wrote to the Secretary of the Interior to urge implementation of the MOU. No action was undertaken by Interior in response to this request. Also in 2017, CNAA Secretary Laird wrote to then-Interior Deputy Secretary Bernhardt to urge MOU implementation. No action was undertaken by Interior in response to this request.

Senator Feinstein included direction in the FY 18 Energy and Water Appropriations Act to urge Interior to implement the MOU, to provide a Salton Sea budget request to Congress, and to report to Congress on its MOU progress on a biannual basis. No action was undertaken by Interior in response to this request.

Senator Feinstein Secured Federal Legislation for Salton Sea Restoration—the Administration Has Failed to Implement It

Beginning in 2014, IID, CNRA, the Salton Sea Authority (SSA) and agricultural producers developed a strategy of building a partnership with USDA in order to create a robust source of federal funding to address Salton Sea resource concerns. USDA’s conservation programs are funded at roughly \$6 billion annually, and this funding is mandatory—meaning once it is authorized in a Farm Bill no further appropriation is required. Further, USDA funding is directed to be targeted to help agricultural producers address major natural resource concerns.

As the Salton Sea is surrounded by roughly 600,000 acres of prime farmland and its decline directly affects agricultural producers, we identified USDA programs as a good fit for the Salton Sea.

In an effort to take concrete steps to this end, IID and its partners developed proposals and competed for USDA funding support. USDA scores proposals for funding higher if the proposed project affects a significant regional or national resource—and we argued successfully that Salton Sea restoration was not only critical to maintaining the agricultural productivity of the Imperial Valley, but also critical to assuring the sustainability of the Colorado River system as a whole. These initial efforts resulted in the funding of a Regional Conservation Partnership Program (RCPP) project and a Watershed Act pilot project for the Salton Sea.

To further push Interior to fulfill its MOU commitment to form a multi-year funding partnership with USDA and CNRA at the Salton Sea, IID, CNRA, SSA and Imperial Valley growers worked with Senator Feinstein to craft legislation for the 2018 Farm Bill. Senator Feinstein’s successful work increased overall conservation funding in the Farm Bill by \$2.6 billion, created multiple streamlined, non-competitive contracting tools through which USDA could partner directly with the State of California to expand the existing Salton Sea pilots, and directed USDA to use this authority to address critical water resources, like the Salton Sea, impacted by regional drought control efforts.

On January 31, 2019, following the enactment of the 2018 Farm Bill, Senator Feinstein wrote to then-Acting Interior Secretary Bernhardt and USDA Secretary Perdue to ask them to work with her to quickly implement her Farm Bill legislation to leverage \$200 million in state of California funding for the Salton Sea. On the same day, however, IID was advised that Reclamation officials visited with USDA Undersecretary Northey and encouraged USDA not to grant the Senator’s request—arguing that it would disrupt DCP negotiations.

USDA responded to Senator Feinstein that the 2018 Farm Bill programs required implementing rules that needed to be worked out prior to making any further commitment, and that all program funds are allocated on a purely competitive basis. This answer, however, ignored the clear terms of Senator Feinstein’s legislation which permitted—and in fact directed—non-competitive targeting of funding to a major resource concern like the Salton Sea. And implementing rules were not required for three of the four legislative provisions in the Feinstein Farm Bill legislation directed to benefit the sea.

This response also ignored USDA’s long practice of non-competitively targeting major natural resource concerns administratively, and its roughly 67 nationwide conservation initiatives that do so. Such initiatives are typically created after the establishment of smaller pilot projects that have been approved by USDA through a competitive process to address a major concern—as IID and its partners had established for the Salton Sea.

Reclamation's admonishment undermined years of work by IID and its partners to develop a partnership with USDA at the Salton Sea, the work of Senator Feinstein to expand those partnerships and tools in the 2018 Farm Bill, and Interior's inability to fulfill its own 2016 MOU commitment. Inexplicably, it also undermined Reclamation's stated goal for the DCP—that all parties would reach the finish line together.

While Reclamation later wrote to USDA to express tepid support for Senator Feinstein's request, its action in January undermined IID's ability to secure federal funding for the Salton Sea, according to the schedule that the Commissioner had set for the completion of DCP. It was a confusing development given the investment IID and its partners had made in developing a funding source that could address the Salton Sea on the front end of a DCP agreement, and which could secure the participation of the largest Colorado River contractor in DCP.

A DCP “Designed to Fit” within Existing 2007 Environmental Reviews Never Evaluated Salton Sea Impacts

As Reclamation took steps to stand in the way of the satisfaction of IID's DCP condition for Salton Sea funding, it was at the same time aggressively pushing IID to approve the federal DCP authorizing legislation drafted by Reclamation and the Basin States. IID declined to support that legislation, raising the concern that the language would waive federal environmental protections for the Salton Sea. IID sought to modify that language with Reclamation and the Basin States, but those attempts were rejected out of hand by its peers, who forwarded the proposed legislation to Congress in March.

At the March 28th hearing, several witnesses and Commissioner Burman maintained that the DCP was specifically “designed to fit within existing environmental compliance,” strongly implying that the DCP did in legal fact comply with federal environmental laws. In particular, they argued that DCP implementing actions had already been analyzed and reviewed in the 2007 final environmental impact statement (EIS) for Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead, and therefore the DCP is compliant with NEPA.

This argument raised concerns for IID because, like this DCP, the Salton Sea is nowhere to be found in that 2007 document. Our colleagues at Reclamation and the Basin States are free to argue that the 2007 EIS is sufficient for NEPA compliance, and IID would have strong legal arguments to ensure the enforcement of federal environmental protections for the Salton Sea. But Reclamation and the Basin States weren't simply making an argument in the DCP negotiations and to Congress, they were seeking to codify their perspective in federal law. The federal DCP legislation proposed by Reclamation and the Basin States would have rendered IID's ability to enforce those federal environmental protections for the Salton Sea invalid in court.

This was no guess on IID's part or on the part of the few environmental groups willing to speak out against Reclamation and the Basin States' anti-environmental waiver. There was a case on point from our own backyard that clarified the meaning and intent of the DCP language. That case involved the lining of the All-American Canal (AAC), which brings water to the Imperial Valley. In 1994, a NEPA analysis was performed on the lining project. When the project moved to implementation in 2005, environmentalists sued, arguing Interior was required to perform a supplemental EIS. The Ninth Circuit Court of Appeals granted an injunction halting the lining project.

Congress then intervened, directing that the project proceed “notwithstanding any other provision of law” and “without delay.” Interior argued that these eight words waived the applicability of all federal laws to the lining project. The Ninth Circuit held that when Congress uses these key terms in combination, all federal environmental laws are waived with respect to the underlying action. *Consejo De Desarrollo v. United States*, 482 F.3d 1157 (9th Cir. 2007).

When IID raised the concern that the DCP language identical to the AAC waiver would remove Salton Sea protections, the other parties refused to modify the language—arguing that the notwithstanding and without delay clauses were included for non-environmental concerns.

But once the draft legislation was modified by Congress to ensure that federal environmental laws applied to DCP implementation, it became clear that Reclamation's proposed legislation was, in fact, intended to waive federal environmental laws. This intent was revealed by Reclamation and the Basin States' aggressive effort to secure report language in both the House and the Senate—wisely rejected—aiming to deem DCP nonetheless compliant with federal environmental laws.

In particular, Reclamation and the Basin States sought report language to express the view of Congress that the “actions to be undertaken [in DCP] are within the analyses and range of effects reviewed in the environmental documents prepared pursuant to the National Environmental Policy Act (NEPA) in the 2007 final environmental impact statement (EIS) on Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead . . . [and] additional NEPA compliance is only applicable should future actions be undertaken that are outside the range of effects analyzed in those documents . . .”

Report language of this nature is intended to convey the view of Congress that existing environmental documents for a particular action have met the requirements of an underlying statute or obligation. Quite problematically, Reclamation’s proposal also provided that only “future actions” not called for by DCP would be subject to environmental review—language which could have blocked a consideration of DCP impacts on the Salton Sea.

IID objected to this report language because it was aimed at weakening the environmental protections secured in the bill language for the Salton Sea. As noted above, the 2007 NEPA document referenced in the proposed report language never considered or analyzed the Salton Sea. But the report language would have expressed the view of Congress that such impacts to the sea had been analyzed, and that as a result any actions called for under DCP did not require additional environmental review. Under this language, if IID was called upon to back up MWD’s obligations, this report language could have been interpreted to exempt this action from federal environmental review and protections.

Fortunately, both the House and the Senate rejected both the anti-environmental bill and report language proposed by Reclamation and the Basin States.

Conclusion

In 2014, the Pacific Institute estimated that failing to take swift action to address the shrinking Salton Sea would result in \$70 billion in public health, economic and environmental costs. With that price tag, we know the true cost of inaction at the Salton Sea may one day be the loss of our community’s way of life.

That is why in this DCP process, IID stands with the Salton Sea, even when no one else will. It has become a familiar, if lonely, place to be, but it’s also home and that, in the end, is the biggest difference between IID and the rest of the Colorado River community. IID has one agenda—to be a part of a DCP and a Colorado River community that treats the Salton Sea with the dignity and due consideration it deserves, not as its first casualty.

Whether the passage of this DCP will improve the sustainability of the Colorado River is an open question. What we know for sure is that it is a dramatic setback for the sustainability of the Salton Sea.

Thank you for allowing IID the opportunity to correct the record. We sincerely appreciate your efforts to ensure that the Salton Sea was not left without the protections of federal environmental laws as the DCP moved forward in Congress, and we hope to work with you to develop a meaningful federal response to the public health and ecological crisis facing our community.

Sincerely,

ENRIQUE B. MARTINEZ,
General Manager.

The following documents were submitted as an attachment to the above letter. This document is included as part of the hearing record and is being retained in the Committee’s official files:

—Editorial titled, “The Salton Sea disaster ahead.”

