

**Colorado River Basin States Representatives of
Arizona, California, Colorado, Nevada, New Mexico, and Wyoming**

September 8, 2020

VIA ELECTRONIC MAIL – COPIES TO FOLLOW VIA US MAIL

The Honorable David L. Bernhardt, Secretary
U. S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Bernhardt:

As Governors' representatives of the Colorado River Basin States of Arizona, California, Colorado, Nevada, New Mexico, and Wyoming, we write to respectfully request that your office refrain from issuing a Final Environmental Impact Statement (FEIS) or Record of Decision (ROD) regarding the Lake Powell Pipeline until such time as the seven Basin States and the Department of the Interior (Interior) are able to reach consensus regarding outstanding legal and operational concerns raised by the proposed Lake Powell Pipeline project.

The Colorado River Basin States face daunting challenges as populations continue to grow, water demands increase, and supplies diminish. In addressing these challenges, the Basin States, together with the past several presidential administrations, have cultivated cooperative relationships that yielded greater understanding of the unique issues facing each state and a more comprehensive recognition of basin-wide obstacles to sustainable and resilient river operations. At the same time, the Basin States have been careful to preserve each state's rights and obligations under the 1922 Colorado River Compact, the 1948 Upper Colorado River Basin Compact, and other elements of the Law of the River. It is in that spirit that we write to you today.

The proposed Lake Powell Pipeline project will divert water from the Upper Basin to serve communities located within the Lower Basin in Utah. This diversion and use of Colorado River water as currently described by Utah and the Lake Powell Pipeline Draft Environmental Impact Statement issued June 8, 2020 (LPP DEIS) raises significant questions under the 1922 and 1948 Compacts, including questions regarding the accounting of such diversion and use, as well as operational issues under the Law of the River. The LPP DEIS states that Utah is addressing those questions with the other Basin States, and to that end Utah and the other six states have met on a number of occasions. However, the referenced Compact issues and related substantive legal and operational issues remain unresolved.

For more than twenty years, the Basin States, including Utah, and Interior have worked tirelessly to achieve and maintain the reputation of the Colorado River as a model for other systems of management by consensus and collaboration. Remarkably, this consensus and collaboration has occurred – successfully – during a time of both unprecedented, supply-shrinking, multi-decade drought, and massive population growth in the Colorado River Basin. Together we accomplished many things once thought highly improbable, if not impossible, all to the benefit of those who rely on the Colorado River. Important examples of these efforts include the 2007 *Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead* (Guidelines), Minutes 319 and 323 to the 1944 Water Treaty with Mexico, and the Upper and Lower Basin Drought Contingency Plans in 2019. The Basin States also worked collaboratively to support the Navajo-Gallup Water Supply Project in New Mexico, a project that delivers a portion of New Mexico’s Upper Basin allocation to New Mexico lands in the Lower Basin. The proposed Lake Powell Pipeline would achieve a similar result for Utah. The State of Utah has been a critical partner through all of these efforts. As a result of the collaborative approach embodied in these successes and other efforts, we have not only limited the risk that the Colorado River system will crash, we have done so without introducing the unpredictability and untimeliness of having courts weigh in on Colorado River management.

The Lake Powell Pipeline’s prospects for success are substantially diminished if we are compelled to address such issues in the context of the current Lake Powell Pipeline NEPA process rather than through the collaborative, seven-state process we have developed. Moreover, we believe the probability of multi-year litigation over a Lake Powell Pipeline FEIS or ROD is high, and that certain Law of the River questions properly left to discussions and resolution between the states are likely to be raised in such suits. That is not a recipe for creating the kind of meaningful and positive change needed to sustain the Colorado River in the coming decades.

As we have in our past efforts, we commit through this letter to act in good faith to identify consensus solutions to the interstate questions that the Lake Powell Pipeline raises for the entire basin. But that work is undeniably best undertaken as part of a seven-state process rather than as an incident to the NEPA process or ensuing litigation with third parties conducted by courts.

We thank Interior and Reclamation for being an integral part of our successes on the Colorado River over the past twenty years, and we look forward to meeting the substantial challenges that we all see on the horizon through continued hard work, ingenuity, and, most importantly, collaboration.

Sincerely,



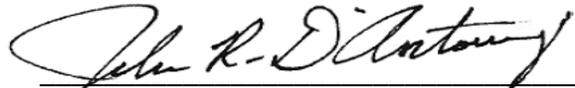
Thomas Buschatzke, Director
Arizona Department of Water Resources



Peter Nelson, Chairman
Colorado River Board of California



Rebecca Mitchell, Director
Colorado Water Conservation Board



John R. D'Antonio Jr., P.E.
New Mexico Office of the State Engineer



John J. Entsminger, General Manager
Southern Nevada Water Authority



Eric Witkoski, Executive Director
Colorado River Commission of Nevada



Patrick T. Tyrrell
State of Wyoming

cc: Dr. Timothy R. Petty, Assistant Secretary for Water and Science
Brenda Burman, Commissioner of Reclamation
Rick Baxter, Project Manager, Provo Office, Upper Colorado Region,
Bureau of Reclamation
Todd Adams, Director, Division of Water Resources, State of Utah