

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM A
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

Conformance to Open Meeting Law.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

Announcement of actions taken to conform to the Open Meeting Law will be reported at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM B
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM C
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

For Possible Action: Approval of minutes of the October 9, 2018 meeting.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

Staff recommends the Commission approve the minutes of the October 9, 2018 meeting.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

The minutes of the October 9, 2018 meeting is enclosed for your review.

The Colorado River Commission of Nevada meeting was held at 1:30 p.m. on Tuesday, October 9, 2018 at the Grant Sawyer State Office Building, 555 East Washington Avenue, Suite 4412, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairwoman
Vice Chairwoman
Commissioner
Commissioner
Commissioner

Puoy Premsrirut
Kara J. Kelley
Steve Sisolak
Dan H. Stewart
Cody T. Winterton

COMMISSIONER(S) NOT IN ATTENDANCE

Commissioner
Commissioner

Marilyn Kirkpatrick
John F. Marz

DEPUTY ATTORNEY(S) GENERAL

Special Counsel, Attorney General

Jennifer Crandell

COMMISSION STAFF IN ATTENDANCE

Deputy Executive Director
Chief of Finance and Administration
Assistant Director of Engineering and Operations
Assistant Director of Energy Services
Natural Resources Program Manager
Natural Resource Analyst
Senior Energy Accountant
Senior Energy Accountant
Assistant Director of Energy Information Systems
Administrative Assistant IV
Administrative Assistant IV
Administrative Assistant II

Eric Witkoski
Douglas N. Beatty
Robert D. Reese
Gail Bates
Angela K. Slaughter
Warren Turkett, Ph. D.
Gail L. Benton
Richard M. Sanders
Kaleb Hall
Katie Aguilar
Kira Bakke
Laterria Graves

OTHERS PRESENT; REPRESENTING

Fennemore Craig, PC
Self
Southern Nevada Water Authority

Carolyn Turner
Sara Price
Jordan Bunker

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF OCTOBER 9, 2018**

INDEX

<u>Agenda Item</u>	<u>Subject</u>	<u>Page No.</u>
A.	Conformance to Open Meeting Law	1
B.	Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken)	1
C.	<i>For Possible Action:</i> Approval of minutes of the September 11, 2018 meeting	1
D.	<i>For Possible Action:</i> Consideration of and possible action on the process for recruitment of an Executive Director by the Commission	1
E.	<i>For Information Only:</i> Notification of receipt of the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting for the Commission's annual financial report for the fiscal year ended June 30, 2017.....	3
F.	<i>For Information Only:</i> Update on the activities of the Financial and Audit Subcommittee.	4
G.	<i>For Information Only:</i> Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.	5
H.	<i>For Information Only:</i> Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.	5
I.	Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken).	5
J.	Comments and questions from the Commission members	5
K.	Selection of next possible meeting date.	6

COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF OCTOBER 9, 2018

INDEX (CONTINUED)

<u>Agenda Item</u>	<u>Subject</u>	<u>Page No.</u>
L.	Adjournment.	6

DRAFT

The Colorado River Commission of Nevada meeting was called to order by Chairwoman Premsrirut at 1:30 p.m. followed by the pledge of allegiance.

A. Conformance to Open Meeting Law.

Deputy Executive Director Eric Witkoski confirmed that the meeting was posted in compliance with the Open Meeting Law.

B. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)

Chairwoman Premsrirut asked if there were any comments from the public. There were none.

C. For Possible Action: Approval of minutes of the July 10, 2018 meeting.

Vice Chairwoman Kelley moved for approval of the minutes. The motion was seconded by Commissioner Winterton and approved by a unanimous vote.

D. For Possible Action: Consideration of and possible action on the process for recruitment of an Executive Director by the Commission.

Chief of Finance and Administration, Douglas Beatty gave a presentation on the background of the process for recruitment of an Executive Director by the Commission.

Nevada Revised Statutes 538.133 gives the Commission the authority to appoint the agency's Executive Director.

The Commission's Executive Director, Jayne Harkins, P.E., will resign from the Commission effective October 24, 2018, to become Commissioner of the United States Section of the International Boundary and Water Commission, United States and Mexico.

Staff recommended that the Commission conduct a process to recruit and appoint a new Executive Director.

Chairwoman Premsrirut asked about prior recruitment processes.

Mr. Beatty responded that the Commission had used advertisements through State personnel, trade journals, and American Public Power Association (APPA).

Mr. Beatty further added that a headhunter organization had been discussed previously.

Chairwoman Premsrirut asked if there were previous publications available.

Mr. Beatty confirmed that the previous publications were accessible.

Chairwoman Premsrirut inquired about the distinction between a local and national applicant publication search.

Mr. Beatty confirmed that advertisements have been published in local and national publications and clarified that specifications for applicants with experience in western states can be identified in the advertisement.

Commissioner Stewart stated that the expense for a headhunter is not warranted, adding that the Commission should involve the customers in the process and seek to promote from within the Agency.

Commissioner Sisolak asked about the publication of the identities of candidates.

Special Counsel, Attorney General Jennifer Crandell responded that she was not aware of a legal requirement for publication of candidates prior to an Agendized meeting. When a candidate is selected, their name would be put on the Agenda and then brought before the Commission. It would also be dependent on the selection recruitment process.

Commissioner Sisolak clarified his question about the application process and what the rules are for confidentiality for applicants.

Ms. Crandell answered that a disclosure of information, such as candidates' names could be obtained through a public records request.

Chairwoman Premsrirut echoed the confidentiality concern for the applicants and inquired about the benefits of a headhunter agency or search firm.

Commissioner Sisolak noted that when using a search firm only the selected candidates were made public as opposed to all applicants.

Chairwoman Premsrirut asked about the potential cost for the use of a search firm.

Mr. Beatty answered that he was unaware of the potential cost.

Chairwoman Premsrirut asked about the historical problem of anonymity of the potential candidates.

Mr. Beatty stated that there has never been a prior issue and further explained the difficulties with internet advertisements for applicants.

Ms. Crandell recounted that the prior recruitment of the current Executive Director consisted of a customer group and two Commissioners for the interview process and therefore the names did not need to be agendized and did not need to comply with the Open Meeting Law. The names of the candidates were kept confidential

and only upon selection or recommendation of a candidate, the name was then released.

Mr. Beatty reaffirmed Ms. Crandell's account and added that the names were available if a public records request had been received.

Commissioner Sisolak stated that any subcommittee would still be subjected to the Open Meeting Law and any document that comes before the Commission is available to the public.

Ms. Crandell agreed and added that no request had been received previously.

Chairwoman Premsrirut stated that as the process furthers, the determination for the confidentiality of the applicants will be established. Certain factors will have to be determined in order to begin the process and suggested a questionnaire for the Commission to fill out.

Commissioner Stewart asked how the process would move forward.

Chairwoman Premsrirut recommended the questionnaire in various formats would be the best way to move the process forward.

Commissioner Winterton asked about timing and when the current Executive Director would be resigning.

Chairwoman Premsrirut responded October 24, 2018.

Mr. Witkoski asked about revisiting the item at the November Commission Meeting.

Chairwoman Premsrirut answered that the item should be delayed until December before revisiting.

Commissioner Stewart asked about the formal process of establishing an acting Director.

Ms. Crandell responded that the Deputy Executive Director has the full authority to act on behalf of the Executive Director in the absence of the Executive Director.

This item was not voted on at the meeting.

<p>E. <i>For Information Only:</i> Notification of receipt of the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting for the Commission's annual financial report for the fiscal year ended June 30, 2017.</p>

Mr. Witkoski introduced the Certificate of Achievement.

Each year, the Commission submits its annual financial report to the Government Finance Officers Association (GFOA) for review and evaluation as part of the GFOA's achievement program. The report is subjected to a review by two Special Review Committee members. Both committee members must recommend award of the certificate. The review consists of evaluation in a number of categories including:

1. Reporting in conformity with General Accepted Accounting Principles.
2. Demonstration of compliance with finance-related legal and contractual provisions.
3. Completeness and clarity of a letter of transmittal and introductory section.
4. Inclusion of a complete and clear statistical section.
5. Use of standardized terminology and formatting conventions.
6. Disclosure thoroughness and detail sufficiency.
7. Minimization of ambiguities and potentials for misleading inference.
8. Cohesiveness and internal consistency.
9. Implementation of prior year comments and suggestions for improvement.
10. Readability.

Staff was pleased to inform the Commission's annual financial report again received a Certificate of Achievement.

In the words of GFOA, "The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management." The Commission has received the award for its financial report every year since 1977.

Chairwoman Premsrirut commended Douglas Beatty, Chief of Finance and Administration.

F. For Information Only: Update on the activities of the Financial and Audit Subcommittee.

Mr. Beatty provided an update on the responses to the request for proposals (RFP) that were sent out to seven firms. Six firms have declined the request, while one firm is still investigating participation.

Chairwoman Premsrirut asked for clarification that the RFP was to review the previous auditor's determination.

Mr. Beatty confirmed and provided an update on the current audit.

Chairwoman Premsrirut summarized that there are no current issues and that the audit is ahead of schedule.

Mr. Beatty confirmed.

Chairwoman Premsrirut thanked the Financial and Audit Subcommittee for their time.

G. For Information Only: Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.

There were no updates at the time.

H. For Information Only: Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River. Comments and questions from the Commission members.

Natural Resources Analyst Dr. Warren Turkett delivered a status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.

- Summary of Lake Powell, Lake Mead, and Nevada Water Supply
- Water Use in Southern Nevada
- Precipitation and Temperature
- Unregulated Inflow, Current and Projected Reservoir Status
- Lower Basin Conservation
- Las Vegas Ground Water Accounting

A copy of the report was attached and made a part of the minutes. See Attachment A.

I. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

Chairwoman Premsrirut asked if there were any comments from the public.

J. Comments and questions from the Commission members.

Chairwoman Premsrirut asked if there were any comments or questions from the Commissioners.

Chairwoman Premsrirut stated that the Southern Nevada Water Authority would be providing a presentation at the next meeting regarding the Drought Contingency Plan.

K. Selection of next possible meeting date

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, November 13, 2018, Clark County Government Center in the Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

L. Adjournment.

The meeting was adjourned at 2:17 pm.

Eric Witkoski, Deputy Executive Director

APPROVED:

Puoy Preamsirut, Chairwoman

Colorado River Commission of Nevada

Hydrology and Water Use Update October 9, 2018



Summary

Lake Powell

- Water Year 2018 cumulative precipitation was 64% of average.
- Water Year 2018 unregulated inflow was 43% of average.
- Water Year 2019 unregulated inflow is forecasted at 70% of average.

Lake Mead

- A shortage will not occur in 2019.
- Lake Mead is projected to remain around current elevations through the end of the calendar year.

Nevada Water Supply

- Southern Nevada has 7 years of water supply banked.
- **In 2017, Southern Nevada used 19% less than its annual allocation.**

Storage	Elevation (f)	% Capacity	Change since last year
Lake Mead	1,079.3	38%	- 3.9 ft
Lake Powell	3,591.8	45%	- 35.9 ft

Data retrieved October 9, 2018

2

Water Use In Southern Nevada

Southern Nevada Water Use 2017 Actual Use in Acre-Feet

Nevada Annual Allocation	300,000
Diversion	470,271
Return Flows	226,846
Consumptive Use	243,425
Unused Allocation Available for Banking	56,575 (19%)

Southern Nevada Water Use Diversions Return Flows Consumptive Use

January thru August 2018	325,105	155,667	169,438
--------------------------	---------	---------	---------

Banked Water (through end of 2017) Acre-Feet

Ground Water Recharge in So. Nevada	359,045
Banked in Lake Mead	582,313
Banked in California and Arizona	931,226
Total	1,872,584

3

Unregulated Inflow, Current and Projected Reservoir Status

Projected unregulated inflow to Lake Powell Acre-Feet % Average

Water Year 2018 (preliminary)	4,622,000	43%
April thru July 2018 (observed)	2,602,000	36%

Reservoir	Current Elevation	Current Storage Acre-Feet	Current % Capacity	Projected Elevation on 1/1/2019 ¹
Lake Mead	1,079.3	9,955,000	38%	1,079.2
Lake Powell	3,591.8	10,983,000	45%	3,583.7

Data retrieved October 9, 2018

¹ Based on Reclamation's September 2018 24 Month Study.

4

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM D
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

For Information Only: Update on Commission Staff activities.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

Staff will provide an update at the meeting.

COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM E
FOR MEETING OF NOVEMBER 13, 2018

SUBJECT: *For Possible Action:* Consideration of and possible action to approve and authorize the Executive Director or Deputy Executive Director to execute, in substantially the same form as that attached hereto, the Colorado River Basin States Drought Contingency Plan (DCP) agreements for the Lower Basin, and to execute ICS exhibits to the 2007 Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement that are consistent with the DCP agreements and presented for approval on or before June 30, 2019.

The agreements are in furtherance of the effort to protect critical Lake Powell and Lake Mead elevations. In the Upper Basin, DCP includes drought response operations for Colorado River Storage Project Act reservoirs and the creation of demand management storage capacity. In the Lower Basin, DCP requires by additional water contributions to Lake Mead and creates flexibility in operations to incentivize additional voluntary water conservation to be stored in Lake Mead.

The agreements for execution include:

- 1) the Agreement Concerning Colorado River Drought Contingency Management and Operations ("Companion Agreement");
- 2) the Lower Basin Drought Contingency Plan Agreement ("Lower Basin DCP Agreement") and Exhibit 1 thereto ("Lower Basin Drought Contingency Operations");
- 3) the DCP Contributions and ICS Space Accumulation Limits Sharing Agreement; and
- 4) the SNWA's ICS Exhibit to the 2007 Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement ("Forbearance Exhibit").

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION: Staff recommends the Commission approve and authorize the Executive Director or Deputy Executive Director to execute, in substantially the same form as that attached hereto, the DCP agreements listed below, ICS exhibits to the 2007 Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement that are consistent with the DCP agreements and presented for approval on or before June 30, 2019:

- 1) the Agreement Concerning Colorado River Drought Contingency Management and Operations ("Companion Agreement");
- 2) the Lower Basin Drought Contingency Plan Agreement ("Lower Basin DCP Agreement") and Exhibit 1 thereto "Lower Basin Drought Contingency Operations";
- 3) the DCP Contributions and ICS Space Accumulation Limits Sharing Agreement; and
- 4) the SNWA's ICS Exhibit to the 2007 Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement ("Forbearance Exhibit")

FISAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:**I. BACKGROUND:**

- A. Reclamation's current operational rules for operation of Lake Powell and Lake Mead – adopted in 2007 - are insufficient to protect against reservoirs declining to critically low elevations if dry conditions persist or worsen. In fact, over the past decade, the drought has increased the risk of declining to critical reservoir levels nearly four-fold since implementation of the December 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (2007 Guidelines).
- B. In response to these historic drought conditions, officials in the seven Colorado River Basin States, the Department of Interior and the Republic of Mexico have been working on Drought Contingency Plans (DCPs).
- C. In 2017, the Colorado River Basin States supported efforts by the United States and Mexico to finalize and adopt "Minute 323" to the 1944 Water Treaty between the two nations. Minute 323 provides that if a Lower Basin Drought Contingency Plan is put into effect in the United States, Mexico will also undertake water savings (a "Binational Water Scarcity Contingency Plan") in parity with the U.S. These savings will be recoverable when reservoir conditions improve.
- D. 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. Both Plans are intended to help protect critical reservoir elevations in their respective basins and provide a synergistic benefit to the entire River Basin when operating in tandem.
- E. Modeling studies of the DCPs indicate that when implemented together with Mexico's Binational Water Scarcity Contingency Plan, the risk of reaching critical elevations in Lakes Powell and Mead through 2026 is significantly reduced to the low probabilities (averaging 5% or less) computed when the 2007 Interim Guidelines were adopted.
- F. The agreements include an Upper Colorado River Basin Drought Contingency Plan and a Lower Colorado River Basin Drought Contingency Plan.
 - a. 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.
 - b. 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 new flexibility to incentivize additional voluntary conservation of water to be stored in Lake Mead.
- G. The Upper and Lower Basin DCPs contain actions in addition to those authorized or required by the 2007 Guidelines.

STAFF COMMENTS AND BACKGROUND (CONTINUED):

II. KEY DOCUMENTS:

The documents necessary to implement the Upper and Lower Basin DCPs are the following:

- A. Companion Agreement
- B. Lower Basin Drought Contingency Plan Agreement and
- C. Attached Exhibit 1 - Lower Basin Drought Contingency Operations
- D. Upper Basin Drought Response Operations Agreement
- E. Upper Basin Demand Management Storage Agreement
- F. DCP Contributions and ICS Space Accumulation Limits Sharing Agreement

A. Companion Agreement The Companion Agreement, between the United States, acting through the Secretary of the Interior (Secretary) and the Commissioner of Reclamation, and all parties in both the Upper Basin and the Lower Basin, will attach and incorporate both the Upper Basin DCP documents and the Lower Basin DCP documents. The Companion Agreement acknowledges that:

- a. The Upper and Lower Basin DCPs are intended to allow the development and testing of water management tools in both basins on an interim basis for the benefit of those who rely on the Colorado River System and are likely to benefit the System.
- b. The Basin States desire federal legislation to implement the Upper and Lower Basin DCPs, and will recommend consensus draft federal legislation.
- c. The Upper and Lower Basin DCPs and operations implementing the DCPs will include provisions designed to:
 - resolve any prospective claims or controversies through a consultative process; reserve rights and legal positions of all parties;
 - commit all parties to act in good faith;
 - allow for all parties to enforce the provisions of both the Upper and Lower Basin DCPs against any other party, including the Department of the Interior; and
 - include consultation provisions regarding the implementation and operation of both the Upper and Lower Basin DCPs including specific provisions regarding the potential development of a demand management storage program in the Upper Basin.

B. Lower Basin Drought Contingency Plan Agreement (LBDCP):

- a. The LBDCP Agreement is the agreement through which the Lower Basin parties and the Secretary will agree to the terms of the Lower Basin Drought Contingency Operations (LBOPs) document, which is attached as an exhibit and incorporated by reference.
- b. The LBDCP Agreement includes a commitment by the Secretary to take actions, subject to the availability of appropriations, to implement programs designed to generate 100,000 acre-feet per year of conserved water, as well as provisions amending the existing agreements for the creation and delivery of Intentionally Created Surplus (ICS), consistent with the terms of the LBOPs, and reservation of rights.

STAFF COMMENTS AND BACKGROUND (CONTINUED):

C. Exhibit 1 - Lower Basin Drought Contingency Operations

- a. The LBOps will serve as the guidance document that, in combination with the 2007 Interim Guidelines, will control operations in the Lower Basin. The LBOps will include, among other things, the following provisions:
- b. Each Lower Division State will conserve specified volumes of water (DCP Contributions) in Lake Mead at certain elevations. Arizona and Nevada begin making DCP Contributions when Lake Mead is at or below elevation 1,090'. California begins making DCP Contributions when Lake Mead is at or below elevation 1,045'.
- c. A DCP Contribution may be created by converting ICS to "DCP ICS." DCP ICS may only be delivered when Lake Mead is at or above elevation 1,110', though there are provisions for short-term "borrowing" of DCP ICS.
- d. New provisions will incentivize the creation and long-term storage of ICS in Lake Mead. In particular, ICS will be available for delivery when Lake Mead is above elevation 1,025'; ICS will be subject to a one-time, 10% evaporation assessment rather than a 5% system assessment and annual evaporation losses; each State's maximum ICS accumulation limit will increase; and all DCP ICS may be delivered through 2057.
- e. A commitment by all parties to work together to protect elevation 1,020' in Lake Mead should lake levels continue to decline. This would be implemented through an obligation to consult when Lake Mead is projected to fall below elevation 1,030' in any 24-month period – so that the parties can discuss what additional actions would be implemented.

D. Upper Basin Drought Response Operations Agreement (Agreement for Drought Response Operations at the Initial Units of the Colorado River Storage Project Act):

The Drought Response Operations Agreement, to be signed by the Secretary and each Upper Division State through the Upper Colorado River Commission (UCRC), provides for the parties thereto to collaboratively develop a drought response operations plan for the management of the 1956 Colorado River Storage Project Act (CRSPA) Initial Units. The goal of the Drought Response Operations Agreement is to facilitate a process for the Upper Division States and Secretary to rely on available water supplies from the CRSPA Initial Units as needed to reduce the risk of Lake Powell dropping below elevation 3,525'. The Drought Response Operations Agreement effectively allows protection of the elevation in Lake Powell to be incorporated into the existing operations of the CRSPA Initial Units, and incorporates provisions for recovery of storage at the CRSPA Initial Units, consistent with existing authorities when Lake Powell elevation 3,525' is no longer at risk. It also includes provisions for consultation with the Lower Division States throughout the development and implementation of a drought response operations plan.

STAFF COMMENTS AND BACKGROUND (CONTINUED):

- E. Upper Basin Demand Management Storage Agreement** (Agreement Regarding Storage at Colorado River Storage Project Act Reservoirs Under an Upper Basin Demand Management Program):
- a. The Demand Management Storage Agreement, to be signed by the Secretary and each Upper Division State, through the Upper Colorado River Commission (UCRC), authorizes storage of conserved water in the CRSPA Initial Units, without charge. By securing the storage authorization, the UCRC can effectively consider the feasibility of a demand management program in which water users in the Upper Basin could actively conserve water that would otherwise be put to beneficial use, for the purpose of helping to assure continued compliance with the Colorado River Compact.
 - b. The terms of the Demand Management Storage Agreement provide that if the UCRC determines that a Demand Management Program is feasible in the Upper Basin (as agreed to by each of the Upper Division States), then it may develop and agree to a demand management program in conjunction with the Secretary, and in consultation with the Lower Basin, in which water that has been previously put to beneficial consumptive use may be conserved and conveyed to a CRSPA Initial Unit (Powell, Aspinall, Navajo, Flaming Gorge). Any water stored prior to 2026, upon verification of the conservation and conveyance, will not be subject to release from Lake Powell through 2057 under operational rules except as necessary for compact compliance purposes, and upon the request of the UCRC. After 2026, any demand management storage program would be informed by and considered as part of the renegotiation of the 2007 Interim Guidelines (set to begin in 2020).
- F. DCP Contributions and ICS Space Accumulation Limits Sharing Agreement:**
- a. In addition to these key agreements, Nevada, California, and Arizona have developed a DCP Contributions and ICS Space Accumulation Limits Sharing Agreement.
 - b. This Agreement will implement provisions from the Lower Basin DCP Agreement and LBOps, whereby Nevada through the SNWA and CRCN, and California through the Metropolitan Water District (MWD) will each make up to 50,000 acre-feet of ICS accumulation space available to certain water contractors in the State of Arizona.
 - c. The Agreement will also implement a provision from the LBOps whereby SNWA agrees to make available up to 300,000 acre-feet in DCP Contributions on behalf of Metropolitan Water District in California. This can only occur if MWD has a zero balance in their ICS Account and may not exceed 200,000 acre-feet through 2023 or 300,000 acre-feet through 2026.
 - d. The DCP Contributions made by SNWA on behalf of MWD shall remain credited in SNWA's ICS Account, with a limitation on usage through 2026.

STAFF COMMENTS AND BACKGROUND (CONTINUED):

F. DCP Contributions and ICS Space Accumulation Limits Sharing Agreement (Continued):

- e. After 2026 and through 2057, SNWA may cause MWD to satisfy any SNWA DCP Contribution repayment obligation (up to 50,000 acre-feet annually) for DCP Contributions borrowed by SNWA until SNWA is fully repaid for any DCP Contributions made on behalf of MWD.

G. The SNWA's ICS Exhibit to the 2007 Lower Colorado River Basin Intentionally created Surplus Forbearance Agreement

Through the Southern Nevada Water Authority Municipal Conservation and Off Stream Storage Intentionally Created Surplus (ICS) Project ("Forbearance Exhibit"), SNWA is seeking approval of additional ICS from necessary Lower Basin entities.

The Southern Nevada Water Authority (SNWA) initiated an aggressive municipal conservation program in 2002. SNWA's consumptive use of Colorado River water peaked at over 326,000 acre-feet in 2002. Since that time, SNWA has reduced use by as much as 100,000 acre-feet annually. SNWA's investment in municipal conservation totaled over \$250,000,000 between 2000 and 2018. In addition to the funds expended by SNWA, SNWA's purveyor members have taken many actions to ensure the coordinated success of these conservation programs. The major programs are described in Attachment A to the proposal.

Similarly, SNWA has developed many options to store unused Colorado River resources in offstream storage accounts within California, Nevada, and the Las Vegas aquifer. In order to store approximately 600,000 acre-feet of water in Arizona, SNWA has invested over \$120 million. In addition, SNWA and its member agencies invest annually to maintain their well pumping capacity within the Las Vegas Valley.

Together, the investments in conservation and offstream storage capability have reduced SNWA's water use below its annual apportionment of Colorado River Water and created the ability to store this water offstream. By selectively creating ICS with this water in Lake Mead in lieu of storing the water offstream, it will help proactively manage reservoir elevations by increasing storage in Lake Mead.

III. PROCEDURE

- A. The Basin States seek to finalize the Upper and Lower Basin DCPs prior to the end of 2018 through these agreements, and the Basin States and entitlement holders have collectively agreed to seek federal legislation authorizing and directing the Secretary to implement the proposed operations in the Upper and Lower Basin DCPs.
- B. This would be accomplished by directing the Secretary to sign and implement the Companion Agreement, the Drought Response Operations Agreement, the Demand Management Storage Agreement, and the LB DCP Agreement upon the approval and execution by all other parties. It is anticipated that the Colorado River Basin States will propose very simple legislation through a Seven State letter to the Congressional delegations of each State, with each of the draft documents attached, seeking the delegations' active support for the federal legislation.

STAFF COMMENTS AND BACKGROUND (CONTINUED):

III. PROCEDURE (Continued)

- C. The Lower Basin States will execute the Lower Basin DCP, which includes the Companion Agreement, the Lower Basin DCP Agreement, and any ICS exhibits consistent therewith formulated prior to execution of the DCP documents. The Lower Basin DCP Agreement has an attached guidance document, called the Lower Basin Drought Contingency Operations (“LBOps”). The LBOps describes the new operational rules and is designed to work in conjunction with current Lower Basin operational rules found in the ‘07 Guidelines.
- D. The Lower Basin must also execute an additional agreement to implement specific provisions of the Lower Basin DCP Agreement and the LBOps. This agreement is called the DCP Contributions and ICS Space Accumulation Limits Sharing Agreement.
- E. To implement the DCP, the Upper Basin States will execute Upper Basin DCP, which includes the Upper Basin Drought Response Operations Agreement, the Upper Basin Demand Management Storage Agreement, and the Companion Agreement.
- F. Arizona: By executing the Companion Agreement and the LB DCP Agreement (with the attached LBOps), Arizona would be waiving certain rights and claims and consenting to modification of the Law of the River for a defined period. Pursuant to A.R.S. § 45-106, the Arizona Legislature must approve the agreements and authorize the signature of the Director of the Arizona Department of Water Resources. It is anticipated that Arizona’s legislature would address this issue in early 2019.

Agreement Concerning Colorado River Drought Contingency Management and Operations

AGREEMENT CONCERNING COLORADO RIVER DROUGHT CONTINGENCY MANAGEMENT AND OPERATIONS

This Agreement Concerning Colorado River Drought Contingency Management and Operations ("Companion Agreement") is entered into this ____ day of _____, 201__ by and among [INSERT PARTIES TO THE UB AND LB DCPs]

RECITALS

A. Background

1. Federal law and practice (including, but not limited to, Section 16 of the Boulder Canyon Project Act, 43 U.S.C § 6170 and Section 602(b) of the 1968 Colorado River Basin Project Act, 43 U.S.C. § 1552(b), the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act, and the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead ("2007 Interim Guidelines")) contemplate that in the operation of Lakes Powell and Mead, the Secretary of the Interior ("Secretary") consults with the Colorado River Basin States and such state representatives as each Governor may designate. Through this law and practice, the Governors' representatives and state agencies have in the past reached agreements among themselves and with the Secretary on various aspects of Colorado River reservoir operation. This Companion Agreement is entered into in furtherance of this law and practice.
2. The signatories to the April 23, 2007, Agreement Concerning Colorado River Management and Operations ("2007 Seven States' Agreement") intended to improve cooperation and communication among them; provide additional security and certainty in the water supply of the Colorado River System for the benefit of the people served by water from the Colorado River System; and avoid circumstances which could otherwise form the basis for claims or controversies over interpretation or implementation of the Colorado River Compact and other applicable provisions of the Law of the River.¹
3. The signatories to the 2007 Seven States' Agreement subsequently submitted to the Secretary a recommendation ("States' Recommendation") for operation of the Colorado River System, including proposed guidelines to be incorporated in a record of decision at the conclusion of a decision-making process pursuant to the National

¹ The "Law of the River" as mentioned in this Companion Agreement refers to the body of law existing on the date of this Companion Agreement and affecting the interstate and international use, management, and allocation of water in the Colorado River System, including the 1922 Colorado River Compact, the Mexican Water Treaty of 1944, the 1948 Upper Colorado River Basin Compact, several United States Supreme Court decisions, the Consolidated Decree of the Supreme Court in *Arizona v. California*, and a host of federal laws and administrative regulations.

Environmental Policy Act, 42 U.S.C. §§ 4321 through 4347.

4. On December 13, 2007, the Secretary adopted a record of decision, based in large part on the States' Recommendation, entitled the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead, effective through December 31, 2025 (through preparation of the 2026 Annual Operating Plan) ("Interim Period").
5. Consistent with and pursuant to provisions in the 2007 Seven States' Agreement and the 2007 Interim Guidelines, the Parties have regularly consulted regarding various issues that have arisen prior to and during implementation of the 2007 Interim Guidelines.
6. Based on the actual operating experience gained after the adoption of the 2007 Interim Guidelines and emerging scientific information regarding the increasing variability and anticipated decline in Colorado River flow volumes, the Parties recognize and acknowledge that those relying on water from the Colorado River System face increased individual and collective risk of temporary or prolonged interruptions in water supplies, with associated adverse impacts on the society, environment, and economy of the Colorado River Basin. Therefore, the Parties have agreed that it is necessary and beneficial to pursue additional actions beyond those contemplated in the 2007 Interim Guidelines to reduce the likelihood of reaching critical elevation levels in Lake Powell and Lake Mead through the Interim Period.
7. The Parties have developed two drought contingency plans: the Upper Basin Drought Contingency Plan ("Upper Basin DCP"), which affects operations above Lee Ferry, and the Lower Basin Drought Contingency Plan ("Lower Basin DCP"), which affects operations below Lee Ferry. Both the Upper Basin DCP and the Lower Basin DCP are supplemental to and in furtherance of the goals of the 2007 Interim Guidelines.
8. Beginning in 2008, the Parties began discussions with the International Boundary and Water Commission ("IBWC") and representatives of Mexico regarding potential cooperative actions in the Colorado River Basin pursuant to the United States-Mexico Treaty on Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande ("1944 Water Treaty"), culminating in several agreements ("Minutes") designed to implement the Treaty terms.
9. From 2015 through 2017, the Parties participated in negotiations with the IBWC and representatives of Mexico on Minute 323 to the 1944 Water Treaty, titled Extension of Cooperative Measures and Adoption of a Binational Water Scarcity Contingency Plan in the Colorado River Basin.
10. Minute 323, approved on September 27, 2017, includes a Binational Water Scarcity Contingency Plan for Mexico to participate in the equivalent of drought contingency

plan if a Lower Basin Drought Contingency Plan is put into effect in the United States. The Binational Water Scarcity Contingency Plan is intended to allow Mexico to undertake water savings in parity with U.S. savings for drought contingencies which would be recoverable under specifically improved reservoir conditions.

B. Purpose

The Parties intend that the actions contemplated in and recognized by this Companion Agreement will allow the development and testing, on an interim basis, of tools to provide additional security and certainty in the water supply of the Colorado River System for the benefit of the people served by the System and to avoid circumstances which could otherwise form the basis for claims or controversies over interpretation or implementation of the Colorado River Compact and other applicable provisions of the Law of the River.

AGREEMENT

In consideration of the above recitals and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. Support for the Upper Basin DCP

For purposes of this Companion Agreement, the Upper Basin DCP includes the Agreement for Drought Response Operations at the Initial Units of the Colorado River Storage Project Act and the Agreement Regarding Storage at Colorado River Storage Project Act Reservoirs Under an Upper Basin Demand Management Program (“Demand Management Storage Agreement”) which are attached and incorporated herein as Attachments A1 and A2. The Parties agree that, when executed, the additional agreement(s) specified in Section III.B.3.b of the Demand Management Storage Agreement shall constitute additional components of the Upper Basin DCP. The Parties agree that the components of the Upper Basin DCP are likely to have a beneficial effect on the management of the Colorado River System. The Parties further agree to support steps necessary to achieve final adoption and implementation of the Upper Basin DCP.

B. Support for the Lower Basin DCP

The Lower Basin DCP, entitled Lower Basin Drought Contingency Plan Agreement (including Exhibit 1 entitled Lower Basin Drought Contingency Operations), is attached and incorporated herein as Attachment B. The Parties agree that the components of the Lower Basin DCP are likely to have a beneficial effect on the management of the Colorado River System. The Parties further agree to support steps necessary to achieve final adoption and implementation of the Lower Basin DCP.

C. Federal Legislation

Pursuant to Paragraph B of the Agreement Regarding Notice From the Secretary of the Interior for the Purpose of Implementing Section IV of Minute 323, the non-Federal Parties have worked through a consensus-based effort to develop and seek federal legislation to implement the Upper Basin and Lower Basin DCPs. The legislation developed by the non-Federal Parties is attached hereto as Attachment C.

D. Resolution of Claims or Controversies Related to the Upper Basin DCP or the Lower Basin DCP

Consistent with the purpose of this Companion Agreement, the Parties agree to pursue a consultative approach to resolution of any potential claim or controversy arising under or related to this Companion Agreement, the Upper Basin or Lower Basin DCPs, or the associated federal legislation. In the event any Party becomes concerned that there may be a claim or controversy under this Companion Agreement, the Upper Basin or Lower Basin DCPs, or the associated federal legislation, such Party shall notify all other Parties in writing, and the Parties shall meet in good faith in order to resolve such claim or controversy by mutual agreement. Further, the non-Federal Parties agree that before initiating any judicial or administrative proceeding against any other Party, no claim thereunder shall be ripe until such dispute resolution process set forth in this Paragraph D has been completed. All non-Federal Parties shall comply with any request by the Secretary for consultation in order to resolve any claim or controversy. Notwithstanding anything in this Companion Agreement to the contrary, the terms of this Paragraph shall survive the termination or expiration of this Companion Agreement.

E. Implementation and Enforcement

The Parties acknowledge and agree that implementation and operation of the Upper Basin and Lower Basin DCPs consistent with this Companion Agreement are intended to further the goals and coordinated operations of Lake Powell and Lake Mead pursuant to the 2007 Interim Guidelines, and to enhance conservation of water in the Colorado River System for the benefit of each of the Colorado River Basin States.

The Secretary shall provide and describe 24-Month Study assumptions and projected operations, including those related to Lower Basin water use, to the Parties prior to the completion of the April and August 24-Month Studies under the 2007 Interim Guidelines. In addition to the consultations under the Annual Operating Plan, the Secretary shall also provide and describe to the Parties an evaluation of actual calendar-year operations and identify any substantial variations from modeling assumptions.

The Parties agree to comply with this Companion Agreement, including the Upper Basin and Lower Basin DCPs. The Parties agree to act in good faith and with fair dealing entering into, implementing and performing their obligations under this Companion Agreement, including the Upper Basin and Lower Basin DCPs. In the event of failure to comply with this provision, any affected non-Federal party may maintain an action to enforce pursuant to 43 U.S.C. §1551(c).

F. Past Consultation

Consistent with the 2007 Interim Guidelines and the 2007 Seven States' Agreement, and consistent with the recent history of collaboration on the Colorado River to address and avoid circumstances that could form the basis for claims or controversies, consultation on the terms and application of this Companion Agreement and the Upper Basin and Lower Basin DCPs, has occurred between the Governors' Representatives, Colorado River Basin States and the Secretary of the Interior. Such consultation was limited to the terms of this Companion Agreement and the Upper Basin and Lower Basin DCPs, and was not for the purpose of the Secretary's formal review required in Section XI.G.7.D of the 2007 Interim Guidelines.

G. Consultation on Operations

Any Party may request consultation with the other Parties on implementation or operation of this Companion Agreement including the Upper Basin and Lower Basin DCPs. Upon such request, the Parties shall consult in good faith with each other to address questions, concerns or issues that may arise regarding implementation or operation of this Companion Agreement including the Upper Basin and Lower Basin DCPs.

H. Consultation Regarding Future Implementation

The Demand Management Storage Agreement contemplates certain future actions under specified conditions. Because the implementation of an Upper Basin Demand Management Program would relate to interests, rights and obligations regarding the Colorado River, the Parties agree to work together to seek consensus in finalizing an Upper Basin Demand Management Program. Specifically, the Upper Division States and the Secretary agree to consult with the Lower Division States regarding the following:

1. Verification of and accounting for the actual volume of conserved consumptive use, including consideration of water uses that may be eligible for designation as conserved consumptive use under a Demand Management Program, prior to reaching consensus on the feasibility thereof;
2. The methodology, process and documentation for verification of and accounting for the actual volume of conserved consumptive use considered during the Program Development stage prior to entering into any of the agreement(s) identified in Section III.B.3.b of the Demand Management Storage Agreement; and
3. Annual verification by the Upper Division States, through the Commission, and the Secretary of the volume of conserved water created, conveyed, and stored at the CRSPA Initial Units as set forth in Section III.A.4, III.A.11, and III.B.2.b.vi of the Demand Management Storage Agreement.

I. Consultation on Amendments or Modifications

No substantive amendment or modification of the Companion Agreement shall be made without

the written consent of the Parties.

No substantive amendment or modification to the Upper Basin and Lower Basin DCPs shall be made without prior consultation among the Parties. If a Party requests consultation for amendments or modifications pursuant to this Paragraph, the Parties shall consult in good faith to assess and consider suggested amendments or modifications.

Notwithstanding the above provisions, no amendments or modifications to this Companion Agreement or the Upper Basin and Lower Basin DCPs shall be made without a subsequent act of Congress if such amendments or modifications would conflict with the Colorado River Compact, the Boulder Canyon Project Act, the Upper Colorado River Basin Compact, the 1944 Water Treaty, the Consolidated Decree of the Supreme Court in *Arizona v. California*, the Colorado River Storage Project Act or the Colorado River Basin Project Act.

J. Reservation of Rights

Notwithstanding the terms of this Companion Agreement, including the Upper Basin and Lower Basin DCPs, in the event that for any reason the Parties cannot reach consensus on any matter after the processes set forth in this Companion Agreement have been satisfied, the Parties reserve, and shall not be deemed to have waived, any and all rights, including any claims or defenses, they may have as of the date hereof or as may accrue after the term hereof, under any existing federal or state law or administrative rule, regulation or guideline, including without limitation the Colorado River Compact, the Boulder Canyon Project Act, the Upper Colorado River Basin Compact, the 1944 Water Treaty, the Consolidated Decree of the Supreme Court in *Arizona v. California*, the Colorado River Storage Project Act, the Colorado River Basin Project Act and any other applicable provision of federal law, rule, regulation, or guideline.

Nothing in this Companion Agreement, including the Upper Basin and Lower Basin DCPs, or any related or enabling legislation referenced in Paragraph C of this Companion Agreement shall be utilized against any other Party in any administrative, judicial or other proceeding, except for the sole purpose of enforcing the terms of this Companion Agreement, including the Upper Basin and Lower Basin DCPs. Notwithstanding anything in this Companion Agreement to the contrary, the terms of this Paragraph shall survive the termination or expiration of this Companion Agreement.

K. No Precedent/Reaffirmation of Existing Law

Except as provided in Section II of the Demand Management Storage Agreement, the Parties represent and agree, that nothing in this Companion Agreement, including the Upper Basin and Lower Basin DCPs, or any related or enabling legislation referenced in Paragraph C of this Companion Agreement, shall be interpreted or construed as establishing a precedent for employing the operational tools contemplated by the Upper Basin or Lower Basin DCPs and any related federal legislative approval beyond the terms of the Upper Basin and Lower Basin DCPs. The Parties hereby affirm the entitlement and right of each State under such existing law to use

and develop the water of the Colorado River System. Notwithstanding anything in this Companion Agreement to the contrary, this Paragraph shall survive the termination or expiration of this Companion Agreement.

L. Scope

The Parties represent and agree that actions to be employed under the Upper Basin DCP are limited to Colorado River operations above Lee Ferry, and actions to be employed under the Lower Basin DCP are limited to Colorado River operations below Lee Ferry.

M. Term

This Companion Agreement shall be effective as of the date that all Parties have executed this Companion Agreement. Unless earlier termination is agreed to, in writing, by all Parties, this Companion Agreement shall be effective through the Interim Period, unless otherwise specified in this Companion Agreement, including the Upper Basin and Lower Basin DCPs.

N. Representations and Warranties

Each Party warrants and represents to each of the other Parties, as a material inducement to enter into this Companion Agreement, the following:

1. The Party has all legal power and authority to enter into this Companion Agreement and to perform its obligations hereunder on the terms set forth in this Companion Agreement, and the execution and delivery hereof by each Party and the performance by each Party of its obligations hereunder shall not violate or constitute an event of default under the terms or provisions of any agreement, document, or instrument to which each of the Parties is a Party or by which each Party is bound.
2. The individual executing this Companion Agreement on behalf of the Party has the full power and authority to bind the Party he or she represents to the terms of this Companion Agreement.
3. This Companion Agreement constitutes a valid and binding agreement of each Party, enforceable against each Party in accordance with its terms.

O. No Third-Party Beneficiaries

This Companion Agreement and any agreements made or actions taken pursuant hereto are made solely for the benefit of the Parties. No Party to this Companion Agreement intends for this Companion Agreement to confer any benefit upon any person or entity not a signatory upon a theory of third-party beneficiary or otherwise.

P. The Parties are hereby notified of A.R.S. section 38-511.

Q. Governing Law

This Companion Agreement shall be interpreted, governed by, and construed under applicable Federal law.

R. Actual Operating Experience

Adoption of this Companion Agreement does not preclude exploration of additional approaches for operational flexibility in light of actual operating experience.

S. Uncontrollable Forces

No Party shall be considered to be in default in the performance of any of its obligations under this Companion Agreement when a failure of performance shall be due to any cause beyond the control of the Party affected, including but not limited to, facilities failure, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority which by exercise of due diligence and foresight such Party could not have reasonably expected to avoid. A Party rendered unable to fulfill any of its obligations under this Companion Agreement by reason of an Uncontrollable Force shall give prompt written notice of such Uncontrollable Force to the other Parties and shall exercise due diligence to remove such inability with all reasonable dispatch.

T. Successors and Assigns

The provisions of this Companion Agreement shall apply to and bind the successors and assigns of the Parties, but no assignment or transfer of this Companion Agreement or any right or interest herein shall be valid until consented to in writing by all Parties, which consent shall not be unreasonably withheld.

U. Drafting Considerations

Each Party and its counsel have participated fully in the drafting, review, and revision of this Companion Agreement, each of whom is sophisticated in the matters to which this Companion Agreement pertains, and no one Party shall be considered to have drafted this Companion Agreement.

V. Notices

All notices and requests required or allowed under the terms of this Companion Agreement shall be in writing and shall be sent via electronic mail and mailed first class postage paid to

the following entities at the following addresses:

[INSERT CONTACT INFORMATION:]

A Party may change its address by giving the other Parties notice of the change in writing.

W. Joint Defense Against Third-Party Claims

The Parties have certain common, closely parallel, or identical interests in supporting, preserving, and defending this Companion Agreement. The nature of this interest and the relationship among the Parties present common legal and factual issues and a mutuality of interests. Because of these common interests, the Parties will mutually benefit from an exchange of information relating to the support, preservation, and defense of this Companion Agreement, as well as from the coordinated investigation and preparation for discussion of such interests. In furtherance thereof, in the event of any challenge by a third party to this Companion Agreement, the Parties will proceed with reasonable diligence and use best efforts to support and defend the Companion Agreement in any lawsuit or administrative proceeding challenging the legality, validity or enforceability of any term of this Companion Agreement, and will, to the extent appropriate, enter into joint defense or common interest agreements. Each Party will bear its own costs of participating in the defense of this Companion Agreement under this Paragraph.

X. Counterparts

This Companion Agreement may be executed in counterparts, each of which shall be an original and all of which, together, shall constitute only one Companion Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Companion Agreement on the day and year written above.

[Signatures begin on following page.]

Lower Basin Drought Contingency Plan Agreement
("Lower Basin DCP Agreement")
and
Exhibit 1 thereto "Lower Basin Drought Contingency
Operations "

LOWER BASIN DROUGHT CONTINGENCY PLAN AGREEMENT

This LOWER BASIN DROUGHT CONTINGENCY PLAN AGREEMENT (“LB DCP Agreement”) is made and entered into this ____ day of _____, 2018, by and between the UNITED STATES OF AMERICA (“United States”), represented by the Secretary of the Interior (“Secretary”) and acting through the officer executing this LB DCP Agreement, [certain entities in ARIZONA], [certain entities in CALIFORNIA], the COLORADO RIVER COMMISSION OF NEVADA, an agency of the State of Nevada (“CRCN”), and the SOUTHERN NEVADA WATER AUTHORITY a political subdivision of the State of Nevada (“SNWA”), each of which is at times referred to individually as “Party” or collectively as “Parties”, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), designated the Reclamation Act, and acts amendatory thereof or supplementary thereto; the Act of January 12, 1927 (44 Stat. 957, 43 U.S.C §397a); the Act of December 21, 1928 (45 Stat.1057), designated the Boulder Canyon Project Act; and the Act of September 30, 1968 (82 Stat. 885), designated the Colorado River Basin Project Act, all of which acts are part of the body of law commonly known and referred to as Federal Reclamation law.

RECITALS

A. WHEREAS, as a result of actual operating experience subsequent to the adoption of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (“2007 Interim Guidelines”), as well as emerging scientific information regarding the increasing variability and anticipated decline in Colorado River flow volumes, the Parties recognize and acknowledge that entities that rely on the Colorado River as a water source face increased individual and collective risk of temporary or prolonged

interruptions in water supplies, with associated adverse impacts on the society, environment and economy of the southwestern United States.

B. WHEREAS, the Parties recognize that for decades dating back to 1970, reliance on pragmatic and cooperative Colorado River operational strategies has proven more durable, adaptable, and effective than approaches that would rely exclusively on a determination of precise legal rights and obligations. This approach has also served to avoid destabilizing inter- or multi-state litigation, thereby preserving operational flexibility to respond to changing conditions and societal concerns.

C. WHEREAS, the parties recognize the need to develop and test, on an interim basis, additional operational tools through December 31, 2025 (through preparation of the 2026 Annual Operating Plan for Colorado River reservoirs developed by the Secretary to implement the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968), to address and reduce the likelihood of the continued decline of the elevation of Lake Mead.

D. WHEREAS, the Parties, in consultation with the States of Colorado, New Mexico, Utah, and Wyoming, and stakeholders throughout the Colorado River Basin, have developed the Lower Basin Drought Contingency Operations (“LBOps”) attached hereto as Exhibit “1” and incorporated herein by this reference, which, among other things, provides for the storage of water in Lake Mead under varying conditions, and incentivizes the creation and storage in Lake Mead of Intentionally Created Surplus (“ICS”) under the 2007 Interim Guidelines.

E. AND WHEREAS, for their individual and mutual benefit, the Parties make the commitments set forth herein recognizing the individual and collective harm that could occur

from prolonged interruptions in Lower Basin water supplies from the Colorado River.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Terms defined in the LBOps or 2007 Interim Guidelines have the same meaning when used in this LB DCP Agreement.

2. **Term.** This LB DCP Agreement shall commence on _____ and terminate on the later of (i) December 31, 2026; or (ii) the date on which all ICS Accounts and DCP ICS Accounts are reduced to zero (in either case, the “Term”).

3. **Agreements of the Secretary.** Subject to applicable law, including the availability of appropriations:

a. ***Implementation of LBOps.*** Beginning on the Effective Date of the LBOps, the Secretary shall perform those Secretarial actions required in the attached LBOps.

b. ***Development of Colorado River System Water.*** The Secretary will take affirmative actions to implement Lower Basin programs designed to create or conserve 100,000 acre-feet per annum or more of Colorado River System water to contribute to conservation of water supplies in Lake Mead and other Colorado River reservoirs in the Lower Basin. Prior to implementing affirmative actions pursuant to this Section, the Secretary will meet and confer with the other Parties. The other Parties hereto shall not request delivery of, and the Secretary shall not deliver to any Party or Contractor, the volumes of Colorado River System water conserved through programs implemented by

the Secretary under this Section. For informational purposes, there are a number of Lower Basin system efficiency activities/projects that the Secretary may undertake in fulfillment of this commitment.

c. ***Additional Appropriations.*** The Secretary will explore mechanisms to arrange for additional appropriations or other funding mechanisms to assist the Parties in taking additional Lower Basin drought response actions in a manner consistent with the goals of this LB DCP Agreement.

4. Agreements of the non-federal Parties.

a. ***Intra-State DCP Agreements.*** Prior to or concurrent with the execution of this LB DCP Agreement, the non-federal Parties shall enter into and implement Intra-State DCP Agreements as necessary to carry out the obligations of the non-federal Parties in the LBOps and enable the Secretary to perform the Secretarial actions required in the LBOps.

b. ***ICS.*** The non-federal Parties agree that no Party or Contractor may claim as surplus under Article II.B.6 of the Consolidated Decree any DCP ICS created under the LBOps. Notwithstanding any contrary provisions in existing Lower Basin ICS agreements dated December 13, 2007; November 20, 2012; and September 21, 2017, ICS shall be available according to the terms and conditions of the LBOps.

c. ***Implementation of LBOps.*** Beginning on the Effective Date of the LBOps, the non-federal Parties shall perform those actions necessary to fulfill the requirements of the LBOps, including, without limitation, the obligation to make DCP Contributions as and when required.

d. **Future ICS Exhibits.** Each of the Parties to the 2007 Lower Basin

intentionally Created Surplus Agreement ("ICS Agreement") agrees to consider and approve or reject any newly proposed or amended exhibit to the ICS Agreement within 120 days of the proposal. If a party rejects the exhibit, that party shall provide a meaningful explanation of the basis for its rejection.

e. **Sharing Agreement.** Concurrently with the execution of this LBDCA Agreement, certain Parties are executing the DCP Contributions and ICS Accumulation Limits Sharing Agreement, which provides:

i. Pursuant to Section IV(C) of the LBOPs, SNWA and CRCN shall make up to 50,000 acre-feet of ICS accumulation space available for use by

Contractors in Arizona under the conditions described therein; and

ii. Pursuant to Section IV(C) of the LBOPs, Metropolitan shall make up to

50,000 acre-feet of ICS accumulation space available for use by

Contractors in Arizona under the conditions described therein.

5. Additional Provisions.

a. **No Waiver.** The failure of any Party to enforce a provision of this LB DCP Agreement shall not be deemed to constitute a waiver of that provision.

b. **No Precedent.** This LB DCP Agreement does not establish or act as precedent for any future agreement or undertaking.

c. ***Reservation of Rights.*** Except as expressly provided herein or in the LBOps, nothing in this LB DCP Agreement or the LBOps shall be deemed to diminish or waive the rights of any Party under Federal Reclamation Law, the Law of the River (as defined in the Agreement Concerning Colorado River Drought Contingency Management and Operations (“Companion Agreement”)), or under any other state, federal, or local law.

d. ***Actual Operating Experience.*** Adoption of the additional provisions related to ICS in the LBOps does not preclude exploration of additional provisions for operational flexibility during the Interim Period in light of actual operating experience.

e. ***Uncontrollable Forces.*** No Party shall be considered to be in default in the performance of any of its obligations under this LB DCP Agreement when a failure of performance shall be due to any cause beyond the control of the Party affected, including but not limited to, facilities failure, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority which by exercise of due diligence and foresight such Party could not have reasonably expected to avoid. A Party rendered unable to fulfill any of its obligations under this LB DCP Agreement by reason of an Uncontrollable Force shall give prompt written notice of such act to the other Parties and shall exercise due diligence to remove such inability with all reasonable dispatch.

f. ***Representations and Warranties.*** Each Party warrants and represents to each of the other Parties, as a material inducement to enter into this LB DCP Agreement and not as a mere recital, the following:

1. The Party has all legal power and authority to enter into this LB DCP Agreement and to perform its obligations hereunder on the terms set forth in this LB DCP Agreement, and the execution and delivery hereof by each Party and the performance by each Party of its obligations hereunder shall not violate or constitute an event of default under the terms or provisions of any agreement, document, or instrument to which each of the Parties is a Party or by which each Party is bound.

2. The individual executing this LB DCP Agreement on behalf of the Party has the full power and authority to bind the Party he or she represents to the terms of this LB DCP Agreement.

3. This LB DCP Agreement constitutes a valid and binding agreement of each Party, enforceable against each Party in accordance with its terms.

4. The Party is authorized by, and has undertaken all prerequisite actions required by, applicable Federal and State laws and regulations to perform the obligations and exercise the rights contemplated herein.

g. **Governing Law.** This LB DCP Agreement shall be interpreted, governed by, and construed under applicable Federal law. To the extent permissible under the Federal Rules of Civil Procedure and other applicable Federal authority, venue for adjudication of any disputes under this LB DCP Agreement shall be in an appropriate Federal court.

h. **Successors and Assigns.** The provisions of this LB DCP Agreement shall apply to and bind the successors and assigns of the Parties, but no assignment or transfer of this LB DCP Agreement or any right or interest herein shall be valid until consented to

in writing by all Parties, which consent shall not be unreasonably withheld.

i. ***Amendments and Modifications.*** This LB DCP Agreement may be amended or modified, but only by the written agreement of the Parties after consultation as set forth in Paragraph I of the Companion Agreement.

j. ***Drafting Considerations.*** Each Party and its counsel have participated fully in the drafting, review, and revision of this LB DCP Agreement, each of whom is sophisticated in the matters to which this LB DCP Agreement pertains, and no one Party shall be considered to have drafted this LB DCP Agreement.

k. ***Notices.*** All notices and requests required or allowed under the terms of this LB DCP Agreement shall be in writing and shall be mailed first class postage paid to the following entities at the following addresses:

RECLAMATION:

Regional Director
Lower Colorado Region
Attention: LC-1000
500 Fir Street
Boulder City, NV 89005

[INSERT OTHERS]

A Party may change its address by giving the other Parties notice of the change in writing.

l. ***No Third Party Beneficiaries.*** This LB DCP Agreement and any agreements made or actions taken pursuant hereto are made solely for the benefit of the Parties. No Party to this LB DCP Agreement intends for this LB DCP Agreement to confer any benefit

upon any person or entity not a signatory upon a theory of third-party beneficiary or otherwise.

m. ***Resolution of Claims or Controversies.*** The Parties recognize that judicial or administrative proceedings are not preferred alternatives to the resolution of claims or controversies concerning the Law of the River. In furtherance of this LB DCP Agreement, the Parties desire to avoid judicial or administrative proceedings, and agree to pursue a consultative approach to the resolution of any claim or controversy. If any Party becomes concerned that there may be a claim or controversy under this LB DCP Agreement or, specific to the Secretary, Section 601 of the Colorado River Basin Project Act of 1968 (43 U.S.C. § 1551), and all applicable rules and regulations promulgated thereunder, such party shall notify all other Parties in writing, and the non-federal Parties shall in good faith meet to resolve such claim or controversy by mutual agreement prior to initiating any judicial or administrative proceeding. No non-federal Party shall initiate any judicial or administrative proceeding arising out of this LB DCP Agreement against any other Party, and no claim hereunder shall be ripe, until such consultation has been completed. Notwithstanding any other provision of this LB DCP Agreement, this Section 5.m shall survive for a period of five (5) years following the expiration of this LB DCP Agreement.

n. ***Joint Defense Against Third-Party Claims.*** The Parties have certain common, closely parallel, or identical interests in supporting, preserving, and defending the LBOps and this LB DCP Agreement. The nature of this interest and the relationship among the Parties present common legal and factual issues and a mutuality of interests.

Because of these common interests, the Parties will mutually benefit from an exchange of information relating to the support, preservation, and defense of the LBOs and this LB DCP Agreement, as well as from the coordinated investigation and preparation for discussion of such interests. In furtherance thereof, in the event of any challenge by a third party to the LBOs or this LB DCP Agreement, the Parties will proceed with reasonable diligence and use best efforts to support and defend the LBOs and this LB DCP Agreement in any lawsuit or administrative proceeding challenging the legality, validity or enforceability of any term of the LBOs or this LB DCP Agreement, and will, to the extent appropriate, enter into joint defense or common interest agreements. Each Party will bear its own costs of participating in the defense of the LBOs and this LB DCP Agreement under this Section 5.n.

o. **Counterparts.** This LB DCP Agreement may be executed in counterparts, each of which shall be an original and all of which, together, shall constitute only one LB DCP Agreement.

p. The Parties are hereby notified of A.R.S. section 38-511.

IN WITNESS WHEREOF, the Parties hereto have executed this LB DCP Agreement on the day and year written above.

Exhibit 1 to the Lower Basin Drought Contingency Plan Agreement

LOWER BASIN DROUGHT CONTINGENCY OPERATIONS

I. Relationship to 2007 Interim Guidelines and Implementing Agreements

These Lower Basin Drought Contingency Operations (LBOps) shall, in addition to the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines) and the Implementing Agreements accompanying the 2007 Interim Guidelines, govern the operation of Lake Mead for the various periods set forth herein and as otherwise set forth in the 2007 Interim Guidelines. Terms defined in Section XI.F. of the 2007 Interim Guidelines shall have the same meaning when used in these LBOps. In the event of any inconsistency between the provisions of the 2007 Interim Guidelines and Implementing Agreements on the one hand, and these LBOps on the other, the provisions of these LBOps shall control; provided, however, that nothing herein shall be construed to impact the implementation of coordinated operations of Lakes Powell and Mead during the Interim Period as set forth in Section XI.G.6 of the 2007 Interim Guidelines.

II. Definitions

“Binational ICS” shall mean Binational Intentionally Created Surplus as that term is used in the Interim Operating Agreements for Minutes 319 and 323 to the 1944 Mexican Water Treaty.

“Creation of Non-ICS Water” under these LBOps occurs when, and to the extent, the amount of Colorado River water available for use by a state in a given Year under Article II(B) of the Consolidated Decree (after adjustments for reductions, Developed Shortage Supply creation or delivery, and ICS creation or delivery under the 2007 Interim Guidelines), exceeds the amount of Colorado River mainstream water consumptively used by that state in such Year. Such water shall not be DCP ICS.

“DCP Contributions” shall mean those contributions benefiting Lake Mead through any of the following:

- Conversion of existing Extraordinary Conservation ICS to DCP ICS
- Conversion of Extraordinary Conservation, System Efficiency, or Binational ICS created after the effective date of these LBOps to DCP ICS
- Simultaneous creation and conversion of Extraordinary Conservation, System Efficiency, or Binational ICS to DCP ICS
- Creation of Non-ICS Water

“**DCP ICS**” shall mean Intentionally Created Surplus converted from Extraordinary Conservation ICS, System Efficiency ICS, or Binational ICS as set forth in these LBOps. Reductions in Colorado River water available to a state pursuant to Section XI.G.2.D. of the 2007 Interim Guidelines shall not constitute DCP ICS.

“**DCP ICS Account**” shall mean records established by the Secretary regarding DCP ICS.

“**Effective Date**” means _____.

“**Intra-State DCP Agreements**” means agreements among, as appropriate, a Lower Division State, Contractors, Tribes and local government entities within such state setting forth the relative rights and obligations among Contractors within the state regarding DCP Contributions.

III. **Operational Provisions**

A. **Reservoir Elevation Projections**

In making projections of Lake Mead water surface elevations as required throughout these LBOps, the Secretary shall use the Bureau of Reclamation’s August 24-Month Study for the most probable inflows unless expressly provided otherwise herein.

B. **DCP Contributions**

In addition to any reductions provided in Section XI.G.2.D. of the 2007 Interim Guidelines, from the Effective Date of these LBOps through December 31, 2025 (through preparation of the 2026 AOP), and consistent with applicable Intra-State DCP Agreements, the states of Arizona, California, and Nevada, shall make DCP Contributions as follows:

1. ***Arizona***

- a. **Lake Mead January 1 elevation projected to be above 1,045 feet and at or below 1,090 feet**

In Years when Lake Mead elevation is projected to be above 1,045 feet and at or below 1,090 feet on January 1, the state of Arizona shall make annual DCP Contributions in the total amount of 192,000 acre-feet.

- b. **Lake Mead January 1 elevation projected to be at or below 1,045 feet**

In Years when Lake Mead elevation is projected to be at or below 1,045 feet on January 1, the state of Arizona shall make annual DCP Contributions in the total amount of 240,000 acre-feet.

2. ***Nevada***

- a. Lake Mead January 1 elevation projected to be above 1,045 feet and at or below 1,090 feet

In Years when Lake Mead elevation is projected to be above 1,045 feet and at or below 1,090 feet on January 1, the state of Nevada shall make annual DCP Contributions in the total amount of 8,000 acre-feet.

- b. Lake Mead January 1 elevation projected to be at or below 1,045 feet

In Years when Lake Mead elevation is projected to be at or below 1,045 feet on January 1, the state of Nevada shall make annual DCP Contributions in the total amount of 10,000 acre-feet.

3. **California**

- a. Lake Mead January 1 elevation projected to be above 1,040 feet and at or below 1,045 feet

In Years when Lake Mead elevation is projected to be above 1,040 feet and at or below 1,045 feet on January 1, the state of California shall make annual DCP Contributions in the total amount of 200,000 acre-feet.

- b. Lake Mead January 1 elevation projected to be above 1,035 feet and at or below 1,040 feet

In Years when Lake Mead elevation is projected to be above 1,035 feet and at or below 1,040 feet on January 1, the state of California shall make annual DCP Contributions in the total amount of 250,000 acre-feet.

- c. Lake Mead January 1 elevation projected to be above 1,030 feet and at or below 1,035 feet

In Years when Lake Mead elevation is projected to be above 1,030 feet and at or below 1,035 feet on January 1, the state of California shall make annual DCP Contributions in the total amount of 300,000 acre-feet.

- d. Lake Mead January 1 elevation projected to be at or below 1,030 feet

In Years when Lake Mead elevation is projected to be at or below 1,030 feet on January 1, the state of California shall make annual DCP Contributions in the total amount of 350,000 acre-feet.

4. **DCP Contributions for the benefit of another State**

Contractors within one or more Lower Division States may make all or any portion of the DCP Contributions required of another Lower Division State under this Section III(B) or DCP ICS repayment as required under Section III(F); provided

- (i) each of the Lower Division States and affected Contractors

- agree to any such contribution(s) in writing consistent with any applicable Intra-State DCP Agreements;
- (ii) drafts of such agreements are provided to the Secretary and the Upper Division States prior to any required board authorizations;
 - (iii) DCP Contributions on behalf of another state through conversion of ICS to DCP ICS shall accrue to the DCP ICS Accounts of applicable Contractors in the contributing state and not the state on whose behalf the contribution is made; and
 - (iv) notwithstanding the foregoing subsection (iii), the volume of any DCP ICS contributions made for the benefit of another state shall count against the storage limit set forth in Section IV(C) below and the ICS delivery limit set forth in Section IV(D) below of the state on whose behalf the contribution is made and not the contributing state.

C. Combined DCP Contributions and 2007 Interim Guidelines Shortages

For purposes of illustrating the combined DCP Contributions volumes set forth in these LBOps and the shortages required under Section XI.G.2.D of the 2007 Interim Guidelines, Table 1, below, combines the applicable volumes by elevation for each state.

Table 1 – DCP Contributions and 2007 Interim Guidelines Shortages by State

Projected January 1 Lake Mead Elevation (feet msl)	2007 Interim Guidelines Shortages		DCP Contributions			Combined Volumes (2007 Interim Guidelines Shortages & DCP Contributions)			
	Arizona	Nevada	Arizona	Nevada	California	Arizona	Nevada	California	Lower Division States Total
	(thousand acre-feet)								
At or below 1,090 and above 1,075	0	0	192	8	0	192	8	0	200
At or below 1,075 and at or above 1,050	320	13	192	8	0	512	21	0	533
Below 1,050 and above 1,045	400	17	192	8	0	592	25	0	617
At or below 1,045 and above 1,040	400	17	240	10	200	640	27	200	867
At or below 1,040 and above 1,035	400	17	240	10	250	640	27	250	917
At or below 1,035 and above 1,030	400	17	240	10	300	640	27	300	967
At or below 1,030 and at or above 1,025	400	17	240	10	350	640	27	350	1,017
Below 1,025	480	20	240	10	350	720	30	350	1,100

D. Water Deliveries/DCP Contributions

1. *Process regarding DCP Contributions*

In any year that DCP Contributions are required, the Secretary shall meet and confer at least once each quarter with any Contractor that is required to make DCP Contributions (as identified in Intra-State DCP Agreements) for the purpose of ensuring that the best available information regarding DCP Contribution status and the source of the DCP Contribution is available to both the Secretary and the affected Contractor. The Secretary shall consult upon request with any other Contractor regarding the implementation of DCP Contributions.

2. *Delivery Schedule Adjustments*

The Secretary shall adjust as necessary any scheduled deliveries of Colorado River water in a manner that ensures each state's DCP Contributions are within 25,000 acre-feet of the amounts set forth in Section III.B by the end of the Year in which such DCP Contributions are required. Such adjustments shall be in accordance with any Intra-State DCP Agreements. Prior to making any delivery schedule adjustment pursuant to this section, the Secretary shall provide the affected Contractor the maximum practicable notice and an opportunity to meet and confer with the Secretary.

3. *DCP Contributions Not Surplus*

The Secretary shall not release pursuant to Article II.B.6 of the Consolidated Decree any DCP Contribution during the Year of the DCP Contribution.

E. DCP Contributions Accounting Matters

1. *DCP Contributions*

On an annual basis, the Secretary shall document and publish in its Accounting Report pursuant to Article V of the Consolidated Decree, the amount of each of the DCP Contributions made pursuant to these LBOs.

2. *DCP ICS and System Benefit*

- a. In the annual Water Accounting Report the Secretary shall separately account for and verify the creation and delivery of DCP ICS in a manner consistent with Section XI.G.3.D. of the 2007 Interim Guidelines.
- b. Any delivery of DCP ICS pursuant to Section III.F of these LBOs shall be limited to amounts documented and published by the Secretary pursuant to this Section III.E.2.
- c. Beginning in 2027, and each Year thereafter, the Secretary shall diminish each DCP ICS Account by three percent (3%) for the benefit of the Colorado River system.
- d. The provisions for DCP ICS accounting shall remain in effect through December 31, 2057, for any amounts remaining to be delivered on December 31, 2026.

3. *Conversion of Excess DCP ICS to ICS*

In the event Lake Mead's January 1 elevation in a given Year is higher than that projected in the preceding August 24-Month Study, any DCP ICS creation that would not have occurred in such Year if the DCP Contribution had been determined based on Lake Mead's actual January 1 elevation rather than a projection will instead remain available as the type of ICS originally created to the extent such volumes are the result of conservation actions consistent with Exhibits A-___ of the Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement and any subsequent Exhibits executed pursuant to the 2007 Interim Guidelines and these LBOps.

4. ***DCP Contribution Deficiency***

Notwithstanding Section III.D.2, above, in the event that any final Water Accounting Report indicates that a state's DCP Contribution in any prior Year is less than the exact amount required in Section III.B above, the state shall make DCP Contributions in the amount of the deficiency during the Year in which such final Water Accounting Report is published in addition to any DCP Contributions required by Section III.B for that Year.

5. ***Cumulative DCP Contributions Accounting***

If at any time the cumulative volume of DCP Contributions is greater than or equal to 3.35 million acre-feet of contributions from Arizona, California and Nevada, the Secretary shall separately account for all such volumes in excess of 3.35 million acre-feet, and such volumes shall be available for delivery pursuant to Section III.F notwithstanding Section IV.C, below.

F. **Delivery of DCP ICS**

1. ***Annual Limits***

Delivery of DCP ICS pursuant to this Section III.F shall be combined with and count toward the limitations on delivery of ICS set forth in Section XI.G.3.C.4 of the 2007 Interim Guidelines .

2. ***Effective Period of Annual limits***

The annual limitations on delivery set forth in Section III.F.1 above shall remain in effect through December 31, 2057, for any amounts remaining to be recovered on December 31, 2026.

3. ***Delivery of DCP ICS through December 31, 2026; repayment obligations***

a. **Lake Mead January 1 elevation projected to be above 1,110 feet**

In Years when Lake Mead's January 1 elevation is projected to be above 1,110 feet, the states of Arizona, California and Nevada shall be permitted to schedule delivery of DCP ICS without any repayment obligation.

- b. Lake Mead January 1 elevation projected to be above 1,025 feet and at or below 1,110 feet

In Years when Lake Mead's January 1 elevation is projected to be above 1,025 feet and at or below 1,110 feet, the states of Arizona, California and Nevada shall be permitted to have short-term access to existing DCP ICS (adjusted to reflect any borrowing or repayment pursuant to this Section) as reflected in the most recent final Water Accounting Report, with the obligation that such volumes be repaid by December 31 of the Year following delivery. If there are insufficient repayments, the Secretary shall make appropriate delivery schedule adjustments consistent with Section III.D.2 to ensure that DCP ICS delivered pursuant to this Section III.F.3.b is fully and timely repaid.

- c. Lake Mead January 1 elevation projected to be at or below 1025 feet

In Years when Lake Mead's January 1 elevation is projected to be at or below 1,025 feet, delivery of DCP ICS shall not be permitted.

4. ***Delivery of DCP ICS from January 1, 2027, through December 31, 2057; repayment obligations***

- a. Lake Mead January 1 elevation projected to be above 1,110 feet

In Years when Lake Mead's January 1 elevation is projected to be above 1,110 feet, the states of Arizona, California and Nevada shall be permitted to schedule delivery of DCP ICS without any repayment obligation.

- b. Lake Mead January 1 elevation projected to be above 1,075 and at or below 1,110 feet

In Years when Lake Mead's January 1 elevation is projected to be above 1,075 feet and at or below 1,110 feet, the states of Arizona, California and Nevada may schedule delivery of DCP ICS and shall, not later than the fourth Year following the Year in which the water was delivered, elect one of the following repayment options:

1. Repay such quantities before or during the fifth Year following the Year in which the water was delivered; or
2. Instruct the Secretary to reduce the DCP ICS Account from which the water was borrowed by an additional twenty percent (20%) of the amount borrowed before or during the fifth Year following the Year the water was delivered.

In the event there is insufficient DCP ICS repaid under option 1, or insufficient DCP ICS in the DCP ICS Account to make the adjustment contemplated in option 2, the Secretary shall make appropriate delivery schedule adjustments consistent with Section III.D.2 to ensure that DCP ICS

delivered pursuant to this Section III.F.4.b is fully repaid by the end of the fifth Year following the Year in which it was delivered.

- c. Lake Mead January 1 elevation projected to be above 1,025 feet and at or below 1,075 feet

In Years when Lake Mead's January 1 elevation is projected to be above 1,025 feet and at or below 1,075 feet, the states of Arizona, California and Nevada shall be permitted to have short-term access to existing DCP ICS (adjusted to reflect any borrowing or repayment pursuant to this Section) as reflected in the most recent final Water Accounting Report, with the obligation to repay any such quantities by December 31 of the Year following the Year in which the water was delivered. If there are insufficient repayments, the Secretary shall make appropriate delivery schedule adjustments consistent with Section III.D.2 to ensure that DCP ICS delivered pursuant to this Section III.F.4.c is fully and timely repaid.

- d. Lake Mead January 1 elevation projected to be at or below 1,025 feet

In Years when Lake Mead's January 1 elevation is projected to be at or below 1,025 feet, delivery of DCP ICS shall not be permitted.

5. ***No System Assessment for DCP ICS Repayments***

There shall be no system assessment on the creation of any ICS for conversion to DCP ICS as repayment pursuant to Sections III.F.3.b, III.F.4.b, and III.F.4.c above..

IV. **Incentives for Enhanced Creation of Intentionally Created Surplus Benefitting Lake Mead**

A. **Provisions Relating to System and Evaporation Assessments**

1. ***Total assessed losses – existing Extraordinary Conservation ICS***

The amount of Extraordinary Conservation ICS available as of the Effective Date in each ICS Account maintained by the Secretary is provided in Table 2. On the Effective Date, the Secretary shall assess additional losses as necessary such that the total assessed losses (including both system assessments and evaporation) for all ICS set forth in Table 2 is ten percent (10%). Through December 31, 2026, these volumes shall not be subject to any further assessments for system or evaporation losses.

[insert table 2]

2. ***Total assessed losses – Extraordinary Conservation, Tributary, or Imported ICS created after the Effective Date***

There shall be a one-time deduction of ten percent (10%) of any Extraordinary Conservation, Tributary, or Imported ICS created after the

Effective Date. Through December 31, 2026, these volumes shall not be subject to any further assessments for system or evaporation losses.

3. ***Replenishment Incentive***

Notwithstanding Section IV.A.2 above, there shall be no assessment made upon the creation of Extraordinary Conservation ICS to the extent of the volume of Extraordinary Conservation ICS delivered to the same Contractor in the preceding Year.

4. ***Total assessed losses – System Efficiency ICS***

System assessments and evaporation losses for System Efficiency projects created after the Effective Date, if any, will be determined on a case-by-case basis through exhibits to forbearance agreements.

B. Creation Limits Flexibility Consultation

If one but not all of the Lower Division States reaches its annual Extraordinary Conservation ICS creation limit as set forth in Section XI.G.3.B.4 of the 2007 Interim Guidelines, and if there remains a desire to create additional amounts of Extraordinary Conservation ICS, the Secretary, provided there is no objection by any Lower Division State not reaching its annual limit, may authorize additional Extraordinary Conservation ICS creation within the total annual limitation set forth in Section XI.G.3.B.4 of the 2007 Interim Guidelines (625,000 acre-feet).

C. Storage Limits Augmentation and Sharing

The maximum total amount of Extraordinary Conservation ICS, Binational ICS, and DCP ICS that may be accumulated in all ICS Accounts, at any time, is limited to the following:

1. 1.7 million acre-feet for California Contractors
2. 500 thousand acre-feet for Nevada Contractors
3. 500 thousand acre-feet for Arizona Contractors

Notwithstanding the foregoing, the appropriate entities in Arizona, California, and Nevada may agree that one or more Lower Division State may make available ICS accumulation space within the limits set forth above to another Lower Division State for use by such state's Contractors; provided (i) such agreements are in writing; and (ii) drafts of such agreements are provided to the Secretary and the Upper Division States prior to any required board authorizations.

D. Delivery of ICS

In addition to any Developed Shortage Supply, Extraordinary Conservation ICS, Binational ICS, and System Efficiency ICS shall be available for delivery as follows:

1. ***Lake Mead January 1 elevation projected to be above 1,045 feet and at or below 1,075 feet***

In Years when Lake Mead's January 1 elevation is projected to be above 1,045 feet and at or below 1,075 feet, the combined total delivery of Extraordinary Conservation ICS, Binational ICS, System Efficiency ICS and DCP ICS shall be limited to the quantities set forth in Section XI.G.3.C.4 of the 2007 Interim Guidelines.

2. ***Lake Mead January 1 elevation projected to be above 1,025 feet and at or below 1,045 feet***

In Years when Lake Mead's January 1 elevation is projected to be above 1,025 feet and at or below 1,045 feet, the combined total delivery of Extraordinary Conservation ICS, Binational ICS, System Efficiency ICS, DCP ICS, and the conversion of ICS to DCP ICS shall be limited to the quantities identified in Section XI.G.3.C.4 of the 2007 Interim Guidelines.

3. ***Lake Mead January 1 elevation projected to be at or below 1,025 feet***

In Years when Lake Mead's January 1 elevation is projected to be at or below 1,025 feet, delivery of Extraordinary Conservation ICS, Binational ICS and System Efficiency ICS shall not be permitted.

E. Additional Cooperative Measures

Notwithstanding anything to the contrary within 43 C.F.R. Part 414 (Offstream Storage Of Colorado River Water And Development And Release Of Intentionally Created Unused Apportionment In The Lower Division States), interstate water transactions shall be permitted in Years when Lake Mead's January 1 elevation is projected to be above 1,045 feet.

F. Additional Intentional Conservation

The Secretary shall not release pursuant to Article II of the Consolidated Decree water intentionally conserved by a conservation program within a Lower Division state in which the Secretary participates and that results in reductions in consumptive use.

V. **LBOps Implementation**

A. AOP Process

The Secretary shall utilize the AOP process to determine operations under these LBOps in addition to those pursuant to the 2007 Interim Guidelines.

B. Consultation

The Secretary shall consult with the Lower Division States on the implementation of these LBOps in circumstances including, but not limited to, the following:

- 1 . If any 24-Month Study for the most probable inflows projects that Lake Mead will reach an elevation of 1,075 feet or below by December 31 of the Year in which such study is produced, the Secretary and Lower Division States shall meet and consult at least twice annually to review current and projected operations and associated projected Lake Mead elevations, and to consider whether any adjustments to projected Lower Basin operations are prudent or necessary.
- 2 . A position has not been formally expressed regarding a goal of operationally protecting a specific elevation of Lake Mead. In light of the foregoing, and for their individual and mutual benefit, the parties to the Lower Basin Drought Contingency Plan Agreement have formally acknowledged their commitment to individual and collective action in the Lower Basin to avoid and protect against the potential for the elevation of Lake Mead to decline to elevations below 1,020 feet. Such parties made these commitments recognizing the individual and collective harm that could occur from prolonged interruptions in Lower Basin water supplies from the Colorado River and will implement the commitment identified in this paragraph as follows:

If any 24-Month Study for the minimum probable inflows projects that Lake Mead elevations will be at or below 1,030 feet anytime within the succeeding two Years, the Secretary and Lower Division States shall consult and determine what additional measures will be taken by the Secretary and Lower Division States to avoid and protect against the potential for Lake Mead to decline to below 1,020 feet.

C. Term

These LBOps will remain in effect from the Effective Date through the Interim Period except for those matters for which longer periods are specified.

After the Interim Period the provisions for the accounting and delivery of DCP ICS shall remain in effect through December 31, 2057, as set forth in Section III.E.2.d, III.F.2 and III.F.4 above.

The provisions for the delivery of ICS set forth in Section IV.D above shall remain in effect through December 31, 2036, for any ICS remaining in an ICS Account on December 31, 2026.

The period during which Tributary Conservation ICS, Imported ICS, or Developed Shortage Supply may be created and delivered are unchanged from the 2007 Interim Guidelines.

DCP Contributions and ICS Space Accumulation Limits Sharing Agreement

DCP CONTRIBUTIONS AND ICS ACCUMULATION LIMITS
SHARING AGREEMENT

THIS DCP CONTRIBUTIONS AND ICS ACCUMULATION LIMITS SHARING AGREEMENT (“Sharing Agreement”) is made and entered into this ____ day of _____, 2018, by and between [certain entities in ARIZONA], [certain entities in CALIFORNIA], the COLORADO RIVER COMMISSION OF NEVADA, an agency of the State of Nevada (“CRCN”), and the SOUTHERN NEVADA WATER AUTHORITY a political subdivision of the State of Nevada (“SNWA”), each of which is at times referred to individually as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, pursuant to Section III(B)(4) of the Lower Basin Drought Contingency Operations effective as of _____ (“LBOps”), Contractors within one or more Lower Division States, subject to certain conditions, may make all or any portion of the DCP Contributions required of another Lower Division State under Section III(B) of the LBOps;

WHEREAS, MWD and SNWA, subject to the terms, conditions, and limitations set forth herein, desire that SNWA make up to 300,000 acre-feet of DCP Contributions on behalf of MWD to satisfy State of California DCP Contributions obligations through the Interim Period;

WHEREAS, the Parties desire that this Sharing Agreement constitute the agreement required by Section III(B)(4) of the LBOps for DCP Contributions made for the benefit of another state;

WHEREAS, Section IV(C) of the LBOps sets the maximum amount of Extraordinary Conservation ICS, Binational ICS, and DCP ICS that may be accumulated for each Lower Division State at 1.7 million acre-feet for California Contractors, 500,000 acre-feet for Arizona Contractors, and 500,000 acre-feet for Nevada Contractors (in each case an “ICS Accumulation Limit”);

WHEREAS, pursuant to Section IV(C) of the LBOs, one or more Lower Division States, subject to certain conditions, may agree to make available all or a portion of its ICS Accumulation Limit to another Lower Division State;

WHEREAS, the Parties desire that the States of California and Nevada make available to the State of Arizona during the Interim Period up to 50,000 acre-feet each (not to exceed 100,000 acre-feet total) of their respective ICS Accumulation Limits;

WHEREAS, the Parties desire that this Sharing Agreement constitute the agreement required by Section IV(C) of the LBOs for ICS Accumulation Limits sharing;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

I. DEFINITIONS

Terms defined in the LBOs or 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (“2007 Interim Guidelines”) have the same meaning when used in this Sharing Agreement.

“**ICS Accumulation Limit**” shall have the meaning ascribed to such term in the recitals above.

“**Notice**” shall have the meaning ascribed to such term in Section III below.

II. SNWA DCP CONTRIBUTIONS ON BEHALF OF MWD; DCP ICS REPAYMENT

A. DCP Contributions

In any year that MWD is required to make a DCP Contribution to satisfy a portion of California's DCP Contributions obligations under the LBOs, SNWA agrees to make up to 100,000 acre-feet of such DCP Contribution; provided (i) California shall have an ICS Account balance of zero in California BICS, EC ICS, and System Efficiency ICS Accounts at the time any such DCP Contribution is made; and (ii) the cumulative volume of DCP Contributions made by SNWA pursuant to this Sharing Agreement shall not exceed 200,000 acre-feet through 2023 or 300,000 acre-feet through the Interim Period. MWD shall provide the maximum practicable notice of any MWD request pursuant to this paragraph. SNWA shall retain discretion to select any DCP Contributions mechanism authorized in the LBOs to satisfy SNWA's obligation hereunder.

B. SNWA DCP ICS Delivery and Repayment Obligations

In the event SNWA takes delivery of DCP ICS pursuant to Section III(F)(4) of the LBOs, MWD shall satisfy, pursuant to Section III(B)(4) of the LBOs, any SNWA DCP ICS repayment obligation required by the LBOs; provided (i) MWD's maximum annual repayment obligation on behalf of SNWA shall be limited to 50,000 acre-feet; and (ii) MWD's total repayment obligation hereunder shall be the total volume of DCP Contributions SNWA makes on behalf of MWD pursuant to section II(A) of this Sharing Agreement.

III. SHARING OF ICS ACCUMULATION LIMIT BY CALIFORNIA AND NEVADA

If, during the Interim Period, the State of Arizona desires to accumulate ICS in excess of Arizona's ICS Accumulation Limit, the States of California and Nevada, through their respective signatories to this Sharing Agreement, agree to make available to the State of

Arizona for Arizona Contractors, up to 50,000 acre-feet each (a total of up to 100,000 acre-feet) of their respective ICS Accumulation Limits, subject to the following conditions:

- (i) Arizona shall provide not less than one-year's written notice to California, Nevada, and the Secretary of its intention to use space made available by California and Nevada hereunder ("Notice");
- (ii) Any Notice shall indicate the extent to which Arizona's ICS Accumulation Limit will be exceeded by the creation of ICS by Arizona during the succeeding year;
- (iii) California and Nevada shall share equally in the provision of space necessary for Arizona to store ICS in excess of Arizona's ICS Accumulation Limit under this Sharing Agreement.

IV. **ADDITIONAL PROVISIONS**

- A. No waiver. The failure of any Party to enforce a provision of this Sharing Agreement shall not be deemed to constitute a waiver of that provision.
- B. No Precedent. This Sharing Agreement does not establish or act as precedent for any future agreement or undertaking.
- C. Reservation of rights. Except as expressly provided herein or in the LBOPs, nothing in this Sharing Agreement or the LBOPs shall be deemed to diminish or waive the rights of any Party under Federal Reclamation Law, the Law of the River, or under any other state, federal, or local law.
- D. Uncontrollable Forces. No Party shall be considered to be in default in the performance of any of its obligations under this Sharing Agreement when a failure of performance shall be due to any cause beyond the control of the Party affected, including but not limited to, facilities failure, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority which by exercise of due diligence and foresight such Party could not have

reasonably expected to avoid. A Party rendered unable to fulfill any of its obligations under this Sharing Agreement by reason of an Uncontrollable Force shall give prompt written notice of such act to the other Parties and shall exercise due diligence to remove such inability with all reasonable dispatch.

E. Representations and Warranties. Each Party warrants and represents to each of the other Parties, as a material inducement to enter into this Sharing Agreement and not as a mere recital, the following:

1. The Party has all legal power and authority to enter into this Sharing Agreement and to perform its obligations hereunder on the terms set forth in this Sharing Agreement, and the execution and delivery hereof by each Party and the performance by each Party of its obligations hereunder shall not violate or constitute an event of default under the terms or provisions of any agreement, document, or instrument to which each of the Parties is a Party or by which each Party is bound.
2. The individual executing this Sharing Agreement on behalf of the Party has the full power and authority to bind the Party he or she represents to the terms of this Sharing Agreement.
3. This Sharing Agreement constitutes a valid and binding agreement of each Party, enforceable against each Party in accordance with its terms.
4. The Party is authorized by, and has undertaken all prerequisite actions required by, applicable Federal and State laws and regulations to perform the obligations and exercise the rights contemplated herein.

F. Governing Law. This Sharing Agreement shall be interpreted, governed by, and construed under applicable Federal law. To the extent permissible under the Federal Rules of Civil Procedure and other applicable Federal authority, venue for adjudication of any disputes under this Sharing Agreement shall be in an appropriate Federal court.

- G. Successors and Assigns. The provisions of this Sharing Agreement shall apply to and bind the successors and assigns of the Parties, but no assignment or transfer of this Sharing Agreement or any right or interest herein shall be valid until consented to in writing by all Parties, which consent shall not be unreasonably withheld. Assignments made without the consent of each of the Parties in writing shall be void and not merely voidable.
- H. Amendments and Modifications. This Sharing Agreement may be amended or modified only by the written agreement of the Parties.
- I. Drafting Considerations. Each Party and its counsel have participated fully in the drafting, review, and revision of this Sharing Agreement, each of whom is sophisticated in the matters to which this Sharing Agreement pertains, and no one Party shall be considered to have drafted this Sharing Agreement.
- J. Notices. All notices and requests required or allowed under the terms of this Sharing Agreement shall be in writing and shall be mailed first class postage paid to the following entities at the following addresses:

[Add party addresses]

A Party may change its address by giving the other Parties notice of the change in writing.

- K. No Third-Party Beneficiaries. This Sharing Agreement and any agreements made or actions taken pursuant hereto are made solely for the benefit of the Parties. No Party to

this Sharing Agreement intends for this Sharing Agreement to confer any benefit upon any person or entity not a signatory upon a theory of third-party beneficiary or otherwise.

- L. Resolution of Claims or Controversies. The Parties recognize that judicial or administrative proceedings are not preferred alternatives to the resolution of claims or controversies concerning the Law of the River. In furtherance of this Sharing Agreement, the Parties desire to avoid judicial or administrative proceedings, and agree to pursue a consultative approach to the resolution of any claim or controversy. If any Party becomes concerned that there may be a claim or controversy under this Sharing Agreement, such party shall notify all other Parties in writing, and the Parties shall in good faith meet to resolve such claim or controversy by mutual agreement prior to initiating any judicial or administrative proceeding. No Party shall initiate any judicial or administrative proceeding arising out of this Sharing Agreement against any other Party, and no claim hereunder shall be ripe, until such consultation has been completed. Notwithstanding any other provision of this Sharing Agreement, this Section ___ shall survive for a period of five (5) years following the expiration of this Sharing Agreement.
- M. Joint Defense Against Third-Party Claims. The Parties have certain common, closely parallel, or identical interests in supporting, preserving, and defending the LBOPs and this Sharing Agreement. The nature of this interest and the relationship among the Parties present common legal and factual issues and a mutuality of interests. Because of these common interests, the Parties will mutually benefit from an exchange of information relating to the support, preservation, and defense of the LBOPs and this Sharing Agreement, as well as from the coordinated investigation and preparation for discussion of such interests. In furtherance thereof, in the event of any challenge by a third party to the LBOPs or this Sharing Agreement, the Parties will proceed with reasonable diligence and use best efforts to support and defend the LBOPs and this Sharing Agreement in any lawsuit or administrative proceeding challenging the

legality, validity or enforceability of any term of the LBOps or this Sharing Agreement, and will, to the extent appropriate, enter into joint defense or common interest agreements. Each Party will bear its own costs of participating in the defense of the LBOps and this Sharing Agreement under this Section ____.

N. Counterparts. This Sharing Agreement may be executed in counterparts, each of which shall be an original and all of which, together, shall constitute only one Sharing Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement No. _____ on the day and year first written above.

SNWA's ICS Exhibit to the 2007 Lower Colorado
River Basin Intentionally
Created Surplus Forbearance Agreement
("Forbearance Exhibit")

Southern Nevada Water Authority
Municipal Conservation and Offstream Storage Intentionally Created Surplus (ICS) Project

Summary: The Southern Nevada Water Authority (SNWA) initiated an aggressive municipal conservation program in 2002. SNWA's consumptive use of Colorado River water peaked at over 326,000 acre-feet in 2002. Since that time, SNWA has reduced use by as much as 100,000 acre-feet annually. SNWA's investment in municipal conservation totaled over \$250,000,000 between 2000 and 2018. In addition to the funds expended by SNWA, SNWA's purveyor members have taken many actions to ensure the coordinated success of these conservation programs. The major programs are described in Attachment A to this proposal.

Similarly, SNWA has developed many options to store unused Colorado River resources in offstream storage accounts within California, Nevada, and the Las Vegas aquifer. In order to store approximately 600,000 acre-feet of water in Arizona, SNWA has invested over \$120 million. In addition, SNWA and its member agencies invest annually to maintain their well pumping capacity within the Las Vegas Valley.

Together, the investments in conservation and offstream storage capability have reduced SNWA's water use below its annual apportionment of Colorado River Water and created the ability to store this water offstream. By selectively creating ICS with this water in Lake Mead in lieu of storing the water offstream, it will help proactively manage reservoir elevations by increasing storage in Lake Mead.

Purpose: Provide the Southern Nevada Water Authority (SNWA) with an interim water supply for the duration of time in which Extraordinary Conservation ICS water can be recovered from Lake Mead.

Quantity of Extraordinary Conservation ICS: Beginning in 2017 the amount of Extraordinary Conservation ICS made available to the system per annum as a direct result of SNWA's implementation of this ICS project will be the difference between SNWA's consumptive use of Colorado River Water and Nevada's annual allocation of Colorado River Water. The quantity of Extraordinary Conservation ICS credited to SNWA shall not exceed 100,000 acre-feet per year.

Conservation Implementation: Maintaining the ability to store water offstream in either Nevada, California, or Arizona and continuation of all or a portion of the actions described in Attachment A and any additional municipal water conservation activity that results in a decrease in SNWA's consumptive use of Colorado River water.

Conservation Implementation, Limitations, Verification, and Accounting:

- a) The allocation of Colorado River Water available to Nevada will be based upon the applicable year's Annual Operating Plan, developed pursuant to the Colorado River Basin Project Act and its relevant Criteria for Coordinate Long-Range Operation of the Colorado River Reservoirs. Consumptive use will be based upon the Colorado River Accounting and Water Use Report developed in accordance with Article V of the

Consolidated Decree of the United States Supreme Court in Arizona v. California, 547 U.S. 150 (2006).

- b) The amount of water conserved by SNWA to be devoted to the creation of ICS credits is limited by SNWA's sole discretion to participate in storage and interstate release of water and other annual water use adjustments.
- c) As part of SNWA's annual ICS Verification Report, SNWA will submit an annual report summarizing municipal conservation programs and actions taken during the year, including approximate direct expenditures for all programs and actions (exclusive of staff time).

Attachment A

SNWA Conservation Initiatives

Water Smart Landscaping (WSL) – Since its inception in 1999, the WSL program has incentivized the removal of more than 179 million square feet of grass, saving the community billions of gallons of water. SNWA rebates customers to remove turf and replace it with desert landscaping.

Water Efficient Technologies (WET) - The WET program offers financial incentives to commercial and multi-family participants who install water-efficient devices and technologies.

Water Smart Home (WSH) - The WSH program was developed to increase the water efficiency of new single-family residential developments. Homes built in the WSH program adhere to stringent water use efficiency requirements. WSH must utilize high efficiency toilets, dishwashers and washing machines, efficient faucets and showerheads, and install water-efficient landscaping, low volume irrigation and efficient hot water delivery systems. An SNWA study showed WSH used 49 percent (92,000 gallons) less water than homes built between 1990 and 2003.

Water Smart Contractor (WSC) - The WSC program is a public-private partnership that currently has 80 participating licensed contractors. The program was created to develop a partnership between the landscape industry and the SNWA, while providing participants of the WSL program assistance in choosing a contractor knowledgeable in water-efficient landscape practices.

Water Conservation Coalition (WCC) – The WCC is a public-private partnership formed by community leaders to help increase water-efficient practices within the Southern Nevada business community and to promote community-wide water conservation. Through initiatives such as its speakers bureau, Business-to-Business Challenge and various public projects, the Coalition works closely with the SNWA to identify areas of conservation that are most beneficial to local businesses and the community's overall water conservation goal.

Municipal Rules and Regulation – Local city and county governments have adopted a variety of land use codes and water use ordinances to promote more efficient use of water resources in Southern Nevada. Existing codes include time-of-day and day-of-week watering restrictions, landscape watering, vehicle washing, lawn installation, mist systems, fountains and ornamental water features, water waste and golf course water use (budgets). Development codes prohibit turf installation in front yards and restrict turf installation to 50 percent in backyards. Turf is prohibited in non-residential development.

Water Rates – SNWA and its member agencies operate on a tiered water rate structure, charging higher rates as water use increases.

Water Upon Request – The SNWA, Water Conservation Coalition and Nevada Restaurant Association have partnered to create the Water Upon Request program for restaurants, which agree

to serve water only when patrons request it. For every glass of water not served, as much as 1.5 to 3 gallons of water is saved.

Water Waste Enforcement - City and county ordinances as well as local water provider's service rules prohibit water waste. There are some violations for which customers may be assessed a water waste citation or fee.

COUPON PROGRAMS

Pool Covers - Pool cover coupons are available for single-family homeowners. Two types of pool covers may be purchased with an SNWA coupon: removable, floating covers and permanent, mechanical covers. Discounts vary based upon the lifetime of the cover (removable versus permanent).

Smart Controller Coupons - Smart controller coupons are available for single-family residential homeowners.

Smart Irrigation Rebate Program - The Smart Irrigation Rebate Program is offered to non-residential properties for the upgrade to a smart irrigation controller. Inspections are performed to ensure the irrigation clock to be replaced does not already have smart irrigation technology and that the replacement irrigation clock meets program standards.

Water Smart Car Wash - The Water Smart Car Wash program is a public-private partnership that encourages residents to use commercial car wash facilities instead of washing their vehicles at home. Water used at these facilities is either reused on site or treated and returned to Lake Mead for return-flow credits.

OUTREACH, MEDIA, EDUCATION & CUSTOMER SUPPORT

WaterSmart Innovations (WSI) – The SNWA hosts the WSI, an international peer-to-peer conference that allows attendees to obtain the most current information in water efficiency concepts in urban environments, as well as water conservation education. Since its inception in 2008, the program has featured more than 1,000 professional sessions, panel discussions, and preconference workshops and has hosted approximately 8,300 attendees and 550 exhibitors.

Publications and Media – The SNWA executes a comprehensive campaign of television, print and radio ads that educates the community on the need for water conservation and offers help through snwa.com and the Conservation Helpline. In addition, the SNWA operates a speakers bureau, produces a news-and-information television show, and produces and distributes dozens of water conservation publications. The SNWA also has a bicultural outreach campaign specifically for Southern Nevada's Spanish-speaking audience.

School Grants - The Water Conservation Education Grant Program is a partnership with educational organizations in the SNWA service area that encourages resource stewardship.

Youth Education – The SNWA youth education program provides training and materials to teachers so they can help students learn about our region’s unique water resource issues.

Single-Family Indoor Retrofits - Indoor water audit & retrofit kits include WaterSense labeled items that exceed local, state and national water efficiency standards. Customers can request a kit that includes: a flow test bag, toilet leak dye tablets, one shower head, two bathroom sink aerators, and one kitchen faucet aerator.

Conservation Helpline - The Conservation Helpline (258-SAVE) serves as a point-of-contact for residents interested in available incentive programs and provides various literature items upon request.

Other – Public educational and outreach activities focus on SNWA’s incentive programs and may include: technical classes, speaking engagements, and community events.

SPRINGS PRESERVE

Demonstration Gardens – The SNWA promotes the Springs Preserve’s demonstrative gardens, its water-efficient landscaping, and its classes by master gardeners and horticulturists. The SNWA also supports the development of smaller demonstration projects throughout the Las Vegas valley.

Approved as to form:

**THE STATE OF ARIZONA acting
Through the ARIZONA DEPARTMENT
OF WATER RESOURCES**

By:_____

By:_____

Attest:

**PALO VERDE IRRIGATION
DISTRICT**

By:_____

By:_____

Attest and Approved:

IMPERIAL IRRIGATION DISTRICT

By:_____

By:_____

Approved as to form:

THE CITY OF NEEDLES

By:_____

By:_____

Approved as to form:

**COACHELLA VALLEY WATER
DISTRICT**

By:_____

By:_____

Approved as to form:

**THE METROPOLITAN WATER
DISTRICT OF SOUTHERN
CALIFORNIA**

By:_____

By:_____

Approved as to form:

**SOUTHERN NEVADA WATER
AUTHORITY**

By:_____

By:_____

Approved as to form:

**COLORADO RIVER COMMISSION
OF NEVADA**

By:_____

By:_____

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM F
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

For Information Only: Update on the activities of the Financial and Audit Subcommittee.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

Staff will provide an update at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM G
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

For Information Only: Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

Special Counsel will provide an update at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM H
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM I
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:

Comments and questions from the Commission members.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM J
FOR MEETING OF NOVEMBER 13, 2018

SUBJECT:

Selection of next possible meeting date.

RELATED TO AGENDA ITEM:

None.

RECOMMENDATION OR RECOMMENDED MOTION:

None.

FISCAL IMPACT:

None.

STAFF COMMENTS AND BACKGROUND:

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, December 11, 2018, at the Clark County Government Center in the Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM K
FOR MEETING OF NOVEMBER 13, 2018**

SUBJECT:
Adjournment.

RELATED TO AGENDA ITEM:
None.

RECOMMENDATION OR RECOMMENDED MOTION:
None.

FISCAL IMPACT:
None.

STAFF COMMENTS AND BACKGROUND: