

Resolution of the Colorado Water Conservation Board Regarding Representation of State Interests During the Negotiation of the Post-2026 Interim Operating Guidelines for Lakes Powell and Mead

November 17, 2021

Regarding Negotiation of the Post-2026 Interim Operating Guidelines for Lake Powell and Lake Mead

WHEREAS the Colorado Water Conservation Board was created for the purpose of aiding in the protection and development of the waters of the state, for the benefit of present and future inhabitants;

WHEREAS the Colorado Water Conservation Board has a responsibility to evaluate and implement mechanisms for the effective management and wise administration of the Colorado River within Colorado. Specifically, it is the express responsibility and within the purview of the Board to “cooperate with the United States and agencies thereof, and with other states for the purpose of bringing about the greater utilization of the waters of the state of Colorado,” to “confer with and appear before...other states or...the federal government for the purpose of protecting and asserting the authority, interests, and rights of the state of Colorado and its citizens with respect to the waters of the interstate streams in the state,” to “investigate and assist in formulating a response to the plans, purposes, procedures, requirements, laws, proposed laws, or other activities of the federal government and other states which affect and might affect the use or development of the water resources of this state,” and to “foster the conservation of the water of the state of Colorado by the promotion and implementation of sound measures to enhance water use efficiency in order to serve all the water needs of the state, to assure the availability of adequate supplies for future uses, and to assure that necessary water services are provided at a reasonable cost” see § 37-60-106(1)(e),(i), (h) & (r), C.R.S.;

WHEREAS the Governor, with the approval of the Colorado Water Conservation Board, shall appoint a commissioner, who shall represent the state of Colorado upon joint commissions to be composed of commissioners representing the State of Colorado and another state or states for the purpose of negotiating and entering into compacts or agreements between the states as to interests and rights to interstate waters. (C.R.S. 37-60-109(1) (2021);

WHEREAS the Governor’s representative appointed to protect Colorado’s rights and interests to interstate waters of the Colorado River, with the approval of the Colorado Water Conservation Board, is Rebecca Mitchell;

WHEREAS the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead were adopted by the Seven Basin States of the Colorado River (Colorado, Arizona, California, Nevada, New Mexico, Utah, and Wyoming) and are set to expire December 31, 2025 and the negotiations between the seven Basin States to develop post-2026 interim reservoir operations guidelines will soon begin;

WHEREAS the Colorado River Basin is experiencing its 21st year of an unprecedented period of low stream flows and increased temperatures in its recorded history, that has contributed to significantly decreased storage at Lake Powell and Lake Mead and increased uncertainty in water availability to sustain existing uses throughout the Basin;

WHEREAS the Upper Division States (Colorado, New Mexico, Utah and Wyoming) consume approximately 3 million acre-feet less than their apportionment each year;

WHEREAS diversions and consumptive use in Colorado are naturally limited by hydrology and the prior appropriation doctrine. As such, Colorado's water users frequently do not receive the full amount of water to which they are legally entitled and have taken shortages nearly every year over the last twenty-one years. These shortages are greater in dry years and will only increase in a warming and drying climate;

WHEREAS the Agreement Concerning Colorado River Drought Contingency Management and Operations ("DCP"), agreed to by the Basin States and the Bureau of Reclamation, was adopted in 2019 and intended to reduce the probability that Lake Powell and Lake Mead would decline to critically low elevations, to offer additional protection to the Colorado River system, and the Upper Basin, and to provide an additional level of security to Colorado's water users and major reservoirs. The DCP expires December 31, 2025;

WHEREAS despite implementation of the DCP, projections for the Colorado River System demonstrate the increased risks for water elevations at Lake Powell and Lake Mead to reach critically low levels.

BE IT THEREFORE NOW RESOLVED by the Colorado Water Conservation Board, on November 17, 2021, that considering the conditions outlined above and consistent with its purpose to aid in the protection and development of the waters of the State of Colorado, for the benefit of present and future inhabitants and its statutory duties to bring about the greater utilization of the waters of the state of Colorado, assist in formulating proposed laws which might affect the use or development of Colorado's water resources, foster conservation of water, and assure availability of adequate water supplies for future uses, the Colorado Water Conservation Board recognizes Commissioner Mitchell as Colorado's representative protecting Colorado's rights and interests to interstate waters of the Colorado River including her work to highlight the significant impact to local communities as a result of emergency releases from Blue Mesa Dam, a component of the Aspinall Unit, by the Bureau of Reclamation as part of the Drought Response Operations Agreement of the Upper Basin Drought Contingency Plan;

BE IT FURTHER RESOLVED by the Colorado Water Conservation Board that it recognizes Commissioner Mitchell as Colorado's representative in the interstate and federal negotiations related to the post-2026 operations of Lake Powell and Lake Mead to aid in the protection and development of the waters of the State of Colorado, for the benefit of present and future inhabitants including her leadership in securing a commitment from the Bureau of Reclamation to ensure the best technical tools are being used to support the negotiations; and

BE IT FURTHER RESOLVED by the Colorado Water Conservation Board that it commits to provide the legal, engineering, clerical, and other support necessary for Commissioner Mitchell to represent Colorado's interests in the exercise of her duties, provided that all legal assistants employed are with the consent of the Attorney General and anticipates Commissioner Mitchell and her staff will provide regular updates on Colorado River matters and opportunities to receive input from the Colorado Water Conservation Board.