

**Attachment A1** to the Agreement Concerning Colorado River Drought Contingency Management and Operations (“Companion Agreement”)

**AGREEMENT FOR DROUGHT RESPONSE OPERATIONS AT THE INITIAL UNITS OF THE COLORADO RIVER STORAGE PROJECT ACT**

This Agreement for Drought Response Operations (“Drought Response Operations Agreement”) at the Glen Canyon Dam, Flaming Gorge Dam, Curecanti (the “Aspinall Unit”), and Navajo Dam authorized by the Colorado River Storage Project Act (collectively referred to as the “CRSPA Initial Units” and individually as “CRSPA Initial Unit”), an element of the Upper Colorado River Basin’s Drought Contingency Plan, is hereby made and entered into this 20<sup>th</sup> day of May, 2019 by and among the Upper Colorado River Division States of Colorado, New Mexico, Utah, and Wyoming (“Upper Division States”), through the Upper Colorado River Commission (“Commission”), and the Secretary of the Interior (“Secretary”) hereinafter collectively referred to as the “Parties.” The Secretary may delegate his or her duties under this Drought Response Operations Agreement to the Bureau of Reclamation (“Reclamation”).

**I. INTRODUCTION**

**A. BACKGROUND/OBJECTIVE**

Since 2000, drought conditions in the Colorado River Basin have led to marked fluctuations and decreases in water elevations at key Colorado River reservoirs. The Upper Division States, through the Commission, have developed a Drought Contingency Plan to address the possibility of reservoir storage at Lake Powell declining below a target elevation. This Drought Response Operations Agreement is one element of that Plan. Its primary goals are to minimize the risk of Lake Powell falling below a target elevation and thereby:

1. Help ensure the Upper Division States will continue fulfilling their interstate water compact obligations while exercising their rights to develop and utilize the Upper Colorado River Basin’s (“Upper Basin”) Colorado River System compact apportionment.
2. Maintain the ability to generate hydropower at Glen Canyon Dam so as to protect:
  - a. Continued operation and maintenance of the Initial Units and participating projects authorized under the 1956 Colorado River Storage Project Act, as amended (“CRSPA”);
  - b. Continued funding and implementation of environmental and other programs that are beneficial to the Colorado River System;

- c. Continued electrical service to power customers, including municipalities, cooperatives, irrigation districts, federal and state agencies and Native American Tribes, and the continued functioning of the western Interconnected Bulk Electric System that extends from Mexico to Canada and from California to Kansas and Nebraska; and
  - d. Safety contingencies for nuclear power plant facilities within the Colorado River Basin.
3. Minimize adverse effects to resources and infrastructure in the Upper Basin.

## **B. INTENT**

The Parties intend through this Drought Response Operations Agreement to:

1. Prepare, in advance of drought conditions, drought response operations that will minimize the risk of low water storage conditions at Lake Powell, as well as ensure timely recovery of storage water at the upstream CRSPA Initial Units;
2. Reach consensus on a contingency framework for utilizing the CRSPA Initial Units to respond to drought conditions in the Upper Basin; and
3. Promote communication, coordination, and cooperation among themselves to provide additional certainty in Colorado River water management.

## **C. FRAMEWORK**

The framework for this Drought Response Operations Agreement is developed in recognition of, and consistent with, the law and practice relevant to the Upper Basin as summarized herein:

1. The CRSPA directed and authorized the Secretary to construct and operate the CRSPA Initial Units to, among other things, allow the Upper Division States to utilize their apportionment of the Colorado River consistent with the Colorado River Compact.
2. Project-specific criteria govern the operation of each of the CRSPA Initial Units, including applicable Records of Decision and Biological Opinions to satisfy the requirements of the National Environmental Policy Act and the Endangered Species Act, the authorized purposes for each facility, and state water right systems and decrees.
3. The 1977 Department of Energy Organization Act generally transferred power marketing and transmission (“construction, operation, maintenance, and delivery”) functions, including the responsibility to market and deliver power and energy from the applicable CRSPA Initial Units, from the Department of the Interior to Western Area Power Administration.
4. Articles IV(c) of the Colorado River Compact and XV(b) of the Upper Colorado River Basin Compact (“Upper Basin Compact”) expressly recognize each compacting state’s

rights and powers to regulate within its boundaries the appropriation, use, and control of water apportioned and available to the states by the Colorado River and Upper Basin Compacts.

5. Article VIII(d) of the Upper Basin Compact also establishes the Commission, which is composed of a commissioner representing each of the Upper Division States and a commissioner representing the United States, to perform all functions required by the Upper Basin Compact and do all things necessary, proper, or convenient in the performance of its duties either independently or in cooperation with any state or federal agency.
6. Federal law and practice (including, but not limited to, 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 the Coordinated Operations for Lake Powell and Lake Mead ("2007 Interim Guidelines")) contemplate that in the coordinated operations of Lake Powell and Lake Mead, the Secretary will consult with the Colorado River Basin States through Governors' Representatives, who represent the Governors and their respective state agencies.

## II. AGREEMENT

In consideration of the above 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. BASES OF MUTUAL AGREEMENT

1. Best Efforts: The Parties agree to implement their best efforts to coordinate and collaborate on an ongoing basis to achieve the purposes and implement the provisions of this Drought Response Operations Agreement.
2. Target Elevation: For purposes of this Drought Response Operations Agreement only, Lake Powell surface elevation 3,525 feet mean sea level ("msl") will be considered the "Target Elevation" for minimizing the risk of Lake Powell declining below minimum power pool (approximately elevation 3,490 feet msl) and to assist in maintaining Upper Division States' compliance with the Colorado River Compact. The Parties agree that this elevation appropriately balances the need to protect infrastructure, compact obligations, and operations at Glen Canyon Dam, as storage approaches

minimum power pool with the Upper Division States' rights to put Colorado River System water to beneficial use.

3. Principles for Drought Response Operations: The Parties agree to consider the following principles when identifying appropriate drought response operations (see Section II.A.4 "Drought Response Process") at any CRSPA Initial Unit:
  - a. *Definition of Drought Response Operations*: For purposes of this Drought Response Operations Agreement "drought response operations" refers to operational adjustments or releases made at or from the CRSPA Initial Unit(s) to minimize the risk of Lake Powell declining below the Target Elevation, as well as to provide for actions at the CRSPA Initial Unit(s) in subsequent years to recover storage at the same facility/facilities.
  - b. *Scope of Drought Response Operations*: Any drought response operation, including drought response releases and recovery of storage operations, at a CRSPA Initial Unit will be managed with the maximum flexibility practicable consistent with: the Colorado River Compact; the Upper Colorado River Basin Compact; the Colorado River Storage Project Act; the Colorado River Basin Project Act; the San Juan-Chama Project Act (P.L. 87-483); the Northwestern New Mexico Rural Water Projects Act (P.L. 111-11); the project-specific criteria for each CRSPA Initial Unit, including the relevant Records of Decision, Biological Opinions and authorized purposes for each Unit (see Section I.C.2); legal obligations, including existing and future contracts related to water and/or hydropower; states' water right administration requirements and decrees; and all applicable rules and regulations promulgated thereunder.
  - c. *Participation from all CRSPA Initial Units*: Recognizing the shared risk of extended drought and acknowledging the Upper Division States' continuing responsibilities to maintain compact compliance within the Upper Basin, a drought response operation contemplated by this Drought Response Operations Agreement shall ensure that ALL CRSPA Initial Units will be considered for drought response operations. To this end:
    - i. *Operational Adjustments at Lake Powell*: Operational adjustments in monthly volumes at Glen Canyon Dam will be considered first to minimize the risk of Lake Powell declining below the Target Elevation consistent with the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs, which is currently implemented through the 2007 Interim Guidelines.
    - ii. *All Initial Units Considered*: If operational adjustments at Glen Canyon Dam would not be sufficient to fully minimize the risk of Lake Powell

declining below the Target Elevation, operations at all other CRSPA Initial Units will be uniformly considered through evaluations that include, but are not limited to water availability, hydrology, resource conditions and operational limitations at each Initial Unit in conjunction with adjustments at Glen Canyon Dam to provide additional drought protection at Lake Powell.

iii. Multiple Drought Response Releases: If a CRSPA Initial Unit has participated in a drought response release, it will not be considered for another drought response release in subsequent years unless drought response releases from the other CRSPA Initial Units do not fully reduce the risk of Lake Powell declining below the Target Elevation. In such instances, a CRSPA Initial Unit may participate in subsequent drought response releases regardless of whether it has fully recovered storage following a prior drought response release, but only to the extent that a) water is available at that CRSPA Initial Unit for the drought response operation; and, b) contributions from the other CRSPA Initial Units cannot otherwise protect the Target Elevation at Lake Powell.

d. *Effectiveness*: The Parties agree that a drought response release from a CRSPA Initial Unit may be recommended even if it is determined that such release would not, by itself, fully achieve the intent or goals of this Drought Response Operations Agreement. Such releases, however, may not be recommended if they are ultimately determined to be futile to achieve the goals or intent of this Drought Response Operations Agreement.

e. *Recovery of Storage at CRSPA Initial Units*: Recovery of storage at the CRSPA Initial Units is essential to any drought response operation. Consistent with Section II.A.3.b-c, the drought response operations process will be completed only after each CRSPA Initial Unit has recovered the storage as defined below. When implementing recovery of storage at the CRSPA Initial Units, the following considerations will apply:

i. Recovery of Storage Definition: For purposes of this Drought Response Operations Agreement, storage at a CRSPA Initial Unit is recovered when the first of either of the following occurs:

1. The CRSPA Initial Unit, operating consistent with Section II.A.3.b, has recovered the cumulative volume of water that was released for implementation of drought response operations to minimize the risk of Lake Powell declining below the Target Elevation; or

2. The water elevation at the CRSPA Initial Unit has reached the regular operating target elevation for that facility, for example, deicing target elevation at the Aspinall Unit, the current end-of-water-year storage target at Navajo Reservoir, or the May 1 Upper Level Drawdown Elevation target at Flaming Gorge Reservoir.
  - ii. Dual Operations: Hydrologic variability within the Upper Basin may render releases from a CRSPA Initial Unit ineffective in achieving the intent and goal of this Drought Response Operations Agreement, see Section II.A.3.d, to reduce the risk of Lake Powell declining below the Target Elevation. However, such a CRSPA Initial Unit could still recover storage following a prior drought response release. Moreover, drought response releases from any CRSPA Initial Unit do not preclude recovery of storage actions at another Unit simultaneously.
- f. *Natural Resource Considerations*: Drought response operations at the CRSPA Initial Units will consider the timing, duration, and magnitude of water releases to help minimize, to the extent practicable, impacts to natural resources conditions, recognizing the overall purpose of the drought response operations, and within the scope identified in Section II.A.3.b.
- g. *Impacts to Basin Fund and Bulk Electric System*: Drought response operations at CRSPA Initial Units will consider the timing, duration, and magnitude of water releases to help minimize, to the extent practicable, impacts to the Upper Colorado River Basin Fund and impacts to the reliability of the western Interconnected Bulk Electrical System, within the scope identified in Section II.A.3.b.
- h. *Monitoring*: The Parties agree to include monitoring activities as appropriate as part of any drought response operations (release or recovery of storage). The Parties will incorporate the results of such monitoring into consideration of whether to begin, end, or modify drought response operations.
- i. *Forecast Uncertainty*: Because modeling projections that will be considered and relied upon for any drought response operations cannot predict precise conditions at any given time in the Upper Basin, plans for drought response operations developed in accordance with Section II.A.4.b shall provide sufficient flexibility to begin, end, or adjust operations as needed based on actual hydrologic conditions.

- j. *Emergency<sup>1</sup> Action*: In light of the potential uncertainty associated with modeling projections, the Parties agree that notwithstanding the principles for implementing a drought response operation set forth in this subsection 3, the Secretary retains all applicable authority to make releases from the CRSPA Initial Units and perform subsequent recovery of storage operations if actual hydrology or actual operating experience demonstrate an imminent need to protect the Target Elevation at Lake Powell. Such action shall be performed, to the greatest extent practicable, with advance consultation and coordination with the Upper Division States, through the Commission, and following consultation with the Governors' Representatives of the Colorado River Basin States consistent with the Agreement Concerning Colorado River Drought Contingency Management and Operations ("Companion Agreement").
4. Drought Response Process: In an effort to achieve the primary goals of this Drought Response Operations Agreement, and to implement the "Principles" outlined in Section II.A.3, the Parties agree that, subject to Section II.A.3.j "Emergency Action", they will work to minimize the risk of Lake Powell declining below the Target Elevation by:
- a. *Initiating drought response process*: The Parties will initiate a drought response process, which will include at a minimum:
- i. Notice: The Secretary will notify the Commission and the Lower Division States when Reclamation's 24-Month Study model, using Minimum Probable hydrology based upon the inflow forecast provided by the Colorado Basin River Forecast Center, projects Lake Powell's elevation at or below the Target Elevation at any time during the subsequent 24-month period, or when emergency action becomes necessary as set forth in Section II.A.3.j.
- ii. Modeling: The Secretary will commence monthly modeling of Minimum Probable, Maximum Probable and Most Probable hydrology for the subsequent 24-month period until the Minimum Probable 24-Month Study projects that Lake Powell will consistently remain above the Target Elevation for a 24-month period. Reclamation will report such modeling results to the Upper Division States and the Commission during monthly calls, see Section II.A.4.a.iii.

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<sup>1</sup> The term "emergency" as used in this Drought Response Operations Agreement does not identify, describe or otherwise define what constitutes a general emergency under federal or state laws or other emergency situation at a Reclamation reservoir, a deficiency in the system under the Colorado River Compact, or an extraordinary drought under the 1944 Water Treaty between the United States and Mexico regarding the Colorado River.

- iii. Monthly Calls/Meetings: The Secretary will commence monthly drought operations planning and coordination calls or meetings with the Upper Division States and the Commission to discuss monthly modeling and tracking of hydrology forecasts, system conditions, and status of CRSPA Initial Units; each Party may, in its sole discretion, choose the individuals or entities that will attend.
- iv. Duration: The Secretary will continue the initiation of the drought response process under this subsection (a) until either:
  - 1. The 24-Month Study Minimum Probable hydrology projects Lake Powell elevations to be above the Target Elevation at all times during the subsequent 24-month period, at which time the drought response process may be suspended; or
  - 2. The 24-Month Study Most Probable hydrology projects Lake Powell elevations to be at or below the Target Elevation at any time during the subsequent 24-month period, at which time the Parties will begin developing a Draft Drought Response Operations Plan as set forth below in Section II.A.4.b.
- b. *Developing Draft Drought Response Operations Plan*: The Parties agree to develop a Draft Drought Response Operations Plan by:
  - i. Continuing the Monthly Calls/Meetings described in Section II.A.4.a.iii.
  - ii. Considering the Drought Response Principles set forth in Section II.A.3, including: *Definition of Drought Response Operations; Scope of Drought Response Operations, Participation from all CRSPA Initial Units; Effectiveness, Recovery of Storage; Natural Resource Considerations; Effects to Basin Fund and Bulk Electric System; Monitoring: Forecast Uncertainty; and Emergency Operations*. In doing so, the Draft Plan will, to the greatest extent practicable, identify how to: (1) Minimize the risk of Lake Powell declining below the Target Elevation; (2) Provide for timely adjustments in drought response operations based upon actual monthly hydrology to achieve the purpose and intent of this Drought Response Operations Agreement; and (3) Allow for subsequent recovery of storage at the CRSPA Initial Units, consistent with water contract obligations, relevant Records of Decision and Biological Opinions, and other state or federal legal requirements relevant to each facility.
  - iii. Providing the terms of a Draft Drought Response Operations Plan as contemplated by the Parties to the Lower Division States for review, and consulting with the Governors' Representatives of the Lower Division States consistent with the Companion Agreement to consider and

address, as appropriate, any questions or concerns regarding the terms of the Draft Drought Response Operations Plan as contemplated by the Parties.

- iv. Continuing the process described in Section II.A.4.b.i-iii until either:
  - 1. The 24-Month Study Most Probable hydrology projects Lake Powell to remain above the Target Elevation at all times during the subsequent 24-month period, at which time the Parties will revert to the drought response process described in Section II.A.4.a; or
  - 2. The April 24-Month Most Probable hydrology projects Lake Powell to be at or below the Target Elevation at any time in the next 12-month period, at which time the Parties will finalize the Draft Drought Response Operations Plan as described in Section II.A.4.c.
- c. *Finalize Drought Response Operations Plan:* The Parties will finalize the Drought Response Operations Plan as follows:
  - i. The Commission will review and consider a Final Drought Response Operations Plan after consultation with the Governors' Representatives of the Lower Division States as provided in Section II.A.4.b.iii.
  - ii. Upon approval of the Final Drought Response Operations Plan by both the Upper Division State Commissioners and the Commission, the Commission will forward that Final Drought Response Operations Plan to the Secretary for consideration and approval.
  - iii. In the event of any dispute or disagreement arising from development of the Plan, or if the Secretary wishes to modify or reject the Plan, the Secretary and Commission agree to meet to jointly assess what other drought contingency options may be available.
- d. *Implement Drought Response Operations Plan:* Upon the Secretary's approval of the Drought Response Operations Plan, the Parties agree to:
  - i. Implement drought response operations at the agreed-upon CRSPA Initial Unit(s) in accordance with the Drought Response Operations Plan, and coordinate weekly, or at such other intervals as otherwise agreed to, on such operations.
  - ii. Be available to respond to the Lower Division States' questions or concerns, should they arise, regarding ongoing implementation of Drought Response Operations.
  - iii. Conclude the Drought Response Operations only after the CRSPA Initial Units have recovered the storage that would have otherwise been

available to each Unit but for implementation of Drought Response Operations, as determined in accordance with Section II.A.3.e.

- iv. If the Parties agree that the finalized Drought Response Operations Plan needs to be modified, amended, or supplemented for the purpose of more specifically clarifying the scope and detail of recovery of storage, they will consult with the Lower Division States consistent with Section II.A.4.b.iii.
  - v. In the event of any dispute or disagreement regarding implementation of the Drought Response Operations Plan, the Parties agree to meet to jointly assess what other drought contingency options may be available.
- e. *Emergency Action:* Notwithstanding efforts to develop and implement a Drought Response Operations Plan as outlined above, in the event that actual hydrology or actual operating experience demonstrate an imminent need to protect the Target Elevation as set forth in Section II.A.3.j, the Secretary retains all applicable authority to make releases from the CRSPA Initial Units and perform subsequent recovery of storage operations. Such action shall be performed, to the greatest extent practicable, with advance consultation and coordination with the Upper Division States, through the Commission, and following consultation with the Governors' Representatives of the Colorado River Basin States consistent with the Companion Agreement.
5. Public Outreach: The Parties will coordinate on any public outreach for drought response operations at the CRSPA Initial Units. Such coordination will begin prior to outreach activities with the goal of streamlining discussions and avoiding or resolving differences. Except when an imminent need does not permit sufficient time, public outreach regarding drought response operations will include, but may not be limited to, notifying Native American Tribes, local governments, interested stakeholders, and operational and technical workgroups relevant to the respective CRSPA Initial Units of plans and concepts for drought response operations as they become available.
6. Term for Drought Response Operations: Drought response operations as contemplated through this Drought Response Operations Agreement will not extend beyond the term for operations as set forth in the Record of Decision for the 2007 Interim Guidelines (December 31, 2025 but after finalization of the 2026 Annual Operating Plan, unless terminated sooner). Operations to recover storage after a drought response operation has been implemented will continue as long as necessary to recover from any drought response operations taken before October 1, 2026.

7. Voluntary Efforts: Drought response operations agreed to pursuant to this Drought Response Operations Agreement are voluntary and in the interest of comity. Nothing in this Drought Response Operations Agreement shall be construed to diminish or modify the rights of any Party under existing law.
8. Consistency with Existing Law and Compliance: For the purposes of this Drought Response Operations Agreement, storage of water in and release of water from the CRSPA Initial Units to accomplish a drought response operation does not, and shall not be construed to, violate the Colorado River Compact, Upper Colorado River Basin Compact, Colorado River Storage Project Act, Colorado River Basin Project Act, the San Juan-Chama Project Act (P.L. 87-483), the Northwestern New Mexico Rural Water Projects Act (P.L. 111-11), Records of Decision for each facility, Biological Opinions for each facility, or contracts for water or power, states' water right systems and decrees and all applicable rules and regulations promulgated thereunder.

## **B. ADDITIONAL PROVISIONS**

1. Participation in Similar Activities: This Drought Response Operations Agreement in no way restricts the Parties from participating in similar activities with other public or private agencies, organizations and individuals, as state and federal law may allow.
2. Term: This Drought Response Operations Agreement shall be effective as of the date all Parties provide their written approval and shall be effective as to any additional Party as of the date of execution by such Party. This Drought Response Operations Agreement will not extend beyond the term for operations as set forth in the Record of Decision for the 2007 Interim Guidelines (December 31, 2025 but after finalization of the 2026 Annual Operating Plan, unless terminated sooner) without the written consent of all the Parties.
3. Amendments and Modifications: This Drought Response Operations 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.
4. Resolution of Claims or Controversies: The Parties recognize that judicial or administrative proceedings are not the preferred alternatives to the resolution of claims or controversies regarding this Drought Response Operations Agreement. In furtherance of this Drought Response Operations Agreement, the Parties desire to avoid judicial and administrative proceedings, and agree to pursue a consultative approach to the resolution of any claim or controversy triggered by this Drought

Response Operations Agreement. If any Party becomes concerned that there may be a claim or controversy under this Drought Response Operations Agreement, or as a result of implementing this Drought Response Operations Agreement, such Party shall notify all other Parties via electronic mail or other writing and the Parties shall in good faith meet in order 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 against any other Party under this Drought Response Operations Agreement, or as a result of implementing this Drought Response Operations Agreement until such consultation has been completed. Notwithstanding any other provision of this Drought Response Operations Agreement, this Paragraph shall survive the termination or expiration of this Drought Response Operations Agreement.

5. Reservation of Rights and Authorities: Nothing in this Drought Response Operations Agreement alters the rights, obligations and authorities of the respective Parties. Moreover, nothing in this Drought Response Operations Agreement affects or shall be interpreted to affect the obligations that each Party may have related to natural resources at or around the CRSPA Initial Units under applicable law. Nor have the Parties waived any rights, claims, or defenses now or in the future under any applicable federal or state law or administrative rule, regulation or guideline.
6. No Waiver: The failure of any Party to enforce a provision of this Drought Response Operations Agreement shall not be deemed to constitute a waiver of that provision.
7. No Precedent: The Parties represent and agree that nothing in this Drought Response Operations Agreement, nor the execution of this Drought Response Operations Agreement, establishes or acts as any precedent for managing or operating the CRSPA Initial Units or administering water from the Colorado River System in the Upper Colorado River Basin. This Drought Response Operations Agreement also shall not be interpreted or construed as establishing a precedent for employing the plans or operational tools contemplated by this Drought Response Operations Agreement. 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 Drought Response Operations Agreement to the contrary, this provision shall survive termination of this Drought Response Operations Agreement.

8. Actual Operating Experience: Adoption of this Drought Response Operations Agreement does not preclude exploration of additional approaches for operational flexibility in light of actual operating experience.
9. Uncontrollable Forces: No Party shall be considered to be in default in the performance of any of its obligations under this Drought Response Operations 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 Drought Response Operations 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.
10. Governing Law: This Drought Response Operations 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 Drought Response Operations Agreement shall be in an appropriate Federal court within the Upper Basin.
11. Successors and Assigns: The provisions of this Drought Response Operations Agreement shall apply to and bind the successors and assigns of the Parties, but no assignment or transfer of this Drought Response Operations 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.
12. Drafting Considerations: Each Party and its counsel have participated fully in the drafting, review, and revision of this Drought Response Operations Agreement, each of whom is sophisticated in the matters to which Drought Response Operations Agreement pertains, and no one Party shall be considered to have drafted this Drought Response Operations Agreement.
13. Notices: All notices and requests required or allowed under the terms of this Drought Response Operations 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:

Bureau of Reclamation:

125 South State Street, Room 6107  
Salt Lake City, UT 84138-1147  
Attn: Regional Director

State of Colorado:

Colorado Commissioner to the Upper Colorado River Commission  
c/o Colorado Water Conservation Board  
1313 Sherman Street, Room 718  
Denver, CO 80203  
Attn: Director

State of New Mexico:

New Mexico Interstate Stream Commission  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
Attn: Colorado River Bureau

State of Utah:

Utah Division of Water Resources  
1594 West North Temple, Suite 310  
P.O. Box 146201  
Salt Lake City, UT 84114-6201  
Attn: Director

State of Wyoming:

Wyoming State Engineer's Office  
122 West 25<sup>th</sup> Street  
Herschler Building, 1<sup>st</sup> Floor East  
Cheyenne, WY 82002  
Attn: Wyoming State Engineer

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

14. No Third-Party Beneficiaries: This Drought Response Operations Agreement is made for the benefit of the Parties. No Party to this Drought Response Operations Agreement intends for this Drought Response Operations Agreement to confer any

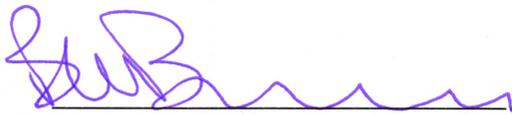
benefit upon any person or entity not a signatory to this Drought Response Operations Agreement upon a theory of third-party beneficiary or otherwise.

15. Authority for Signing: The persons and entities executing this Drought Response Operations Agreement on behalf of the Parties are recognized by the Parties as representing the respective Upper Division States and the Commission and the Department of the Interior in matters concerning the Colorado River and operation of the CRSPA Initial Units, and as those persons authorized to bind the respective Parties to the terms hereof. Each person executing this Drought Response Operations Agreement represents that he or she has the full power and authority to bind the respective Party to the terms of this Drought Response Operations Agreement. This Drought Response Operations Agreement constitutes a valid and binding agreement of each Party, enforceable against each Party in accordance with its terms. No Party shall challenge the authority of any person or Party to execute this Drought Response Operations Agreement and bind such Party to the terms hereof, and the Parties waive the right to challenge such authority.
  
16. Joint Defense Against Third-Party Claims: The Parties have certain common, closely parallel, or identical interests in supporting, preserving, and defending this Drought Response Operations 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 Drought Response Operations 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 Drought Response Operations Agreement, the Parties will proceed with reasonable diligence and use best efforts to support and defend the Drought Response Operations Agreement in any lawsuit or administrative proceeding challenging the legality, validity or enforceability of any term of this Drought Response Operations 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 Drought Response Operations Agreement under this Paragraph.
  
17. Counterparts: This Drought Response Operations Agreement may be executed in counterparts, each of which shall be an original and all of which, together, shall constitute only one Drought Response Operations Agreement.

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

[SIGNATURES START NEXT PAGE]

THE UNITED STATES OF AMERICA

By:   
Brenda W. Burman  
Commissioner  
Bureau of Reclamation

By:   
Dr. Timothy R. Petty  
Assistant Secretary  
U.S. Department of the Interior

Date: May 20, 2019

Date: May 20, 2019

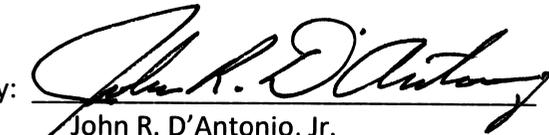
THE STATE OF COLORADO

By:

A handwritten signature in blue ink, appearing to read "L. James Eklund", is written over a horizontal line.

L. James Eklund  
Colorado Commissioner, Upper  
Colorado River Commission  
Governor's Representative

**THE STATE OF NEW MEXICO**

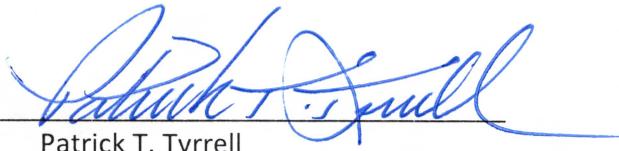
By:   
John R. D'Antonio, Jr.  
New Mexico State Engineer  
Secretary, New Mexico Interstate  
Stream Commission

**THE STATE OF UTAH**

By: 

Eric L. Millis  
Director, Utah Division of Water  
Resources  
Interstate Stream Commissioner

**THE STATE OF WYOMING**

By:   
Patrick T. Tyrrell  
State of Wyoming Commissioner,  
Upper Colorado River Commission