



Arizona State Legislature

1700 West Washington

Phoenix, Arizona 85007

May 5, 2023

Via email and hand-delivery

Hon. Katie Hobbs
Governor of Arizona
1700 W. Washington St., 9th Floor
Phoenix, Arizona 85007

Re: Prioritization of Colorado River Efforts to Protect Arizona's Water Supply

Dear Governor Hobbs:

We are writing to you in our official capacities, as Chairs of the House and Senate Committees on Natural Resources, Energy & Water, Chair of the House Committee on Land, Agriculture & Rural Affairs, and in the interests of the Joint Legislative Ad Hoc Committee on Water Security, established to strengthen Arizona's existing water resources and secure Arizona's water future.

We wish to share our perspective on the ongoing Colorado River negotiations and express concern that Arizona Attorney General Mayes appears to be taking actions that could undermine or distract from those efforts. Specifically, we recently learned of Attorney General Mayes' misplaced attempts to micromanage the Arizona Department of Water Resources ("ADWR") and its Director, Tom Buschatzke—the lead negotiator designated to represent the state's interests in the Colorado River discussions. To ensure Arizona's success in the ongoing negotiations, it is imperative that taxpayer resources are utilized effectively and in accordance with state law.

The Colorado River is a critical resource for Arizona's residents and economy. Approximately 36% of our state's water comes from the Colorado River, 50% of which is used directly by cities and farmers within the Colorado River Basin. With this water, 90% of the fresh produce, vegetables, and leafy greens that are consumed in the United States between the winter months of October and April (when fresh produce otherwise cannot be grown in the rest of the nation due to the cold weather) are grown in Yuma, Arizona. Consequently, Arizona's Colorado River-dependent agricultural industry makes Arizona the 3rd largest producer of fresh vegetables in the country and 4th in the nation for the number of acres of organic vegetables. Collectively, these domestic products contribute billions to our state's economy.

While Yuma farmers continue to adopt water efficiency measures to grow "more crop per drop" each year, even fallowing fields at times to conserve water for the benefit of the greater Colorado River system, there is only so much they can do. Meanwhile, in central Arizona, nearly 6 million people (over 80% of the state's population) depend on the Colorado River for domestic use through the Central Arizona Project canal over 336 miles and 14 pumping stations.

Under the U.S. Department of the Interior's Bureau of Reclamation's ("BOR") Action Alternative 1 for allocating cuts on the Colorado River, which allocates cuts based strictly on the seniority of rights, Arizona's citizens that rely on the Central Arizona Project will see dramatic reductions, potentially cutting them off from the Colorado River completely. With our state's population and economic prosperity on the line, protecting our state's share of the Colorado River from the looming risk of complete disconnection is paramount.

Through ongoing negotiations, Arizona was able to reach an agreement with six of the other Basin states. The only state not to join in the agreement was California. If the BOR proceeds with Action Alternative 1, California's higher priority users will get to keep much of their water, while Arizona's lower priority users will lose. California was Arizona's largest opponent when the Central Arizona Project was authorized in 1968, and California continues to be the holdout in finding a meaningful solution for the river. Accordingly, we should be doing everything we can to fight back against California's positions on water policy today—not trying to import them into our state.

It is unfortunate that the unprecedented conditions of the river and the unsuccessful negotiations with California have left Arizona in a position to rely on the BOR to make reductions to Arizona's water allotments. But with the proper prioritization of our state time and resources, we are optimistic that the BOR will fully consider an equitable approach to allocating cuts on the Colorado River that does not unfairly harm Arizona's central valley residents or put Arizona's economically productive farmers at risk.

It appears that the 45-day public comment period to the Bureau of Reclamation's draft Supplemental Environmental Impact Statement for Near-term Colorado River Operations will end on May 30, 2023. Submitting robust comments in response to the BOR's proposed alternatives and recruiting public comments from other interested stakeholders in Arizona who could be impacted by the BOR's decision should be among our state's top priorities at this time. The ADWR should continue to prioritize these time-sensitive negotiations and any other efforts aimed at achieving an effective solution for Arizonans that does not unreasonably jeopardize our state's water supply.

A few weeks ago, Attorney General Mayes wrote to Director Buschatzke, criticizing ADWR's actions under Arizona's Groundwater Management Act, implying that ADWR had not fulfilled its statutory obligations, and alluding to recent meetings the Attorney General had with Director Buschatzke (ostensibly to discuss the Attorney General's apparent water policy priorities). To be sure, the Legislature has not authorized the Attorney General to direct the priorities of ADWR, implement the Attorney General's preferred policies, or otherwise demand that ADWR report to the Attorney General. *See generally* A.R.S. § 41-193 (prescribing the powers and duties of the Attorney General's department of law); A.R.S. § 45-401, *et seq.* (Arizona's Groundwater Management Act). Instead, the Legislature declared long ago, when enacting the Groundwater Management Act in 1980, that "it is in the best interest of this state and its citizens that the legislature evoke its police power to prescribe which uses of groundwater are most beneficial and economically effective." A.R.S. § 45-401.

Relatedly, and in addition to serving Arizona in the Colorado River negotiations, you have also appointed Director Buschatzke to serve as the Chair of your Water Policy Council established by Executive Order 4. The Water Policy Council is tasked with analyzing and recommending updates, revisions and additions to Arizona's Groundwater Management Act and related water legislation. Your Executive Order does not name the Arizona Attorney General as a member of the Water Policy Council, but it does provide for the appointment of "local government leaders." We take no position on whether you should invite or appoint Attorney General Mayes to participate on your Water Policy Council. We simply emphasize that any policy-driven discussions related to Arizona's groundwater use or reforms to the Groundwater Management Act should occur in an open, collaborative forum, rather than in a politicized demand letter to ADWR that lacks the force of law.

We encourage your office and Director Buschatzke to continue prioritizing Colorado River negotiations, and we look forward to working with your office and ADWR on the broader issues concerning Arizona's water supply through the Joint Ad Hoc Committee on Water Security and the Water Policy Council. Please do not hesitate to contact us if you wish to discuss further or if we can provide assistance on any other aspect of the Colorado River negotiations.

Respectfully,



Representative Gail Griffin
Arizona House of Representatives, Legislative District 19
Chair of Committee on Natural Resources, Energy & Water
Co-Chair of Joint Legislative Committee on Water Security



Senator Sine Kerr
Arizona State Senate, Legislative District 25
Chair of Committee on Natural Resources, Energy & Water
Co-Chair of Joint Legislative Committee on Water Security



Representative Lupe Diaz
Arizona House of Representatives, Legislative District 19
Chair of Committee on Land, Agriculture & Rural Affairs

cc: Tom Buschatzke