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September 29, 2017

## **FREEDOM OF INFORMATION ACT REQUEST**

Upper Colorado River Commission

Dear Don Ostler or FOIA Officer,

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Save The Colorado, requests copies of the following public records in the custody of the Upper Colorado River Commission (“Commission”):

### **Requested Documents and Format**

A document titled “Upper Basin Drought Contingency Plan” as called for in the December 10, 2014 Resolution of the Commission. This document may also be referred to as “Reservoir Drought Contingency Plan Memorandum of Agreement” as indicated on the Select Operating Documents page of your website at <http://www.ucrcommission.com/RepDoc/OD.html>.

As the FOIA requires, please release all reasonably segregable nonexempt portions of the document.

To save resources and mailing expense, we request electronic copies of the documents if available.

Finally, Save the Colorado respectfully requests the Commission include in their response an explanation of which documents, if any, may be privileged or exempt from this FOIA request. If you claim that the records should not be disclosed, please justify your refusal by referring to the specific exemption that you are invoking under the FOIA. 5 U.S.C. § 552(b). Save The Colorado reserves the right to appeal any denial.

### **Fee Waiver Request**

Save The Colorado also requests a waiver of all fees associated with this request, pursuant to 5 U.S.C. §552(a)(4)(A)(iii), since “disclosure of the information is in the public interest because it

is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

Save The Colorado is a national non-profit working to protect and restore the Colorado River and its tributaries from the source to the sea for present and future generations. Save The Colorado is requesting the records described below in furtherance of its general organizational mission and its work surrounding proposed water supply developments on the Colorado River.

### **1. Likely to contribute significantly to public understandings of the operations or activities of the government.**

Disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government,” and therefore in the public interest because, it will significantly contribute to the public’s understanding of the various diverse interests that will be impacted by a water shortage in the Upper Colorado River Basin.

The Commission is an agency created by an act of Congress and acts of several state legislatures for the purpose of managing the water of the Upper Colorado River Basin in accordance with the purposes of the 1948 Upper Colorado River Basin Compact. The Commission engages in governmental activities in furtherance of these purposes.

This request is intended to supplement information already publically available in order to provide a fuller picture of the current legal and operative frameworks governing water use in the Upper Colorado River Basin. Disclosure of these records will contribute to the understanding of a broad public audience because Save The Colorado has the ability to understand and process this information through its regional staff and consultants who are familiar with this issue on the ground and is able to disseminate the information to other interested individuals locally, regionally and nationally.

Save The Colorado is a national organization with approximately 20,000 members and supporters to whom Save the Colorado regularly sends email updates and alerts about issues affecting the Colorado River. Save The Colorado also publishes and sends to its members hard copy newsletters which discuss developments and issues relating to the Colorado River. Finally, Save The Colorado’s website and social media pages contain public information as well. Save The Colorado is also one of the biggest voices in the media speaking out about the protection and restoration of the Colorado River and is quoted dozens of times per year in print media in the Southwest U.S. Through these tools, Save The Colorado is especially suited to reach a reasonably broad audience of interested persons.

### **2. Not primarily in the commercial interest of the requester**

Additionally, because Save The Colorado is a non-profit organization whose officers and directors inure no benefit from the organization’s mission, the “request is not primarily in the commercial interest of the requester.” Additionally, according to the Ninth Circuit, “FOIA is to be liberally construed in favor of waivers for noncommercial requesters.” *Envtl. Prot. Info. Ctr. v. U.S. Forest Serv.*, 432 F.3d 945, 947 (9th Cir. 2005) (internal quotations and citations omitted). As a nonprofit organization, Save The Colorado qualifies as a noncommercial requester.

Because Save The Colorado is a nonprofit organization with limited funding capacity, please contact us if the fee waiver request is denied before proceeding to fulfill the document request. Please provide specific grounds for any denial of the fee waiver request.

### **Conclusion**

As provided by FOIA, 5 U.S.C. § 552(a)(6), we trust that we shall receive a reply to this request within twenty business days of receipt. Thank you for your time and attention in this matter, and we look forward to hearing from you shortly. If you have any questions, feel free to contact Gary Wockner at the contact info set forth above.

Sincerely,

A handwritten signature in black ink that reads "Gary Wockner". The signature is written in a cursive, flowing style.

Gary Wockner, PhD  
Executive Director, Save The Colorado