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July 8, 2016

The Honorable Mike Connor
Deputy Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Deputy Secretary Connor,

I write to request clarification on the Department of Interior's (the Department) policy regarding water left in Lake Mead under existing voluntary conservation programs. Arizona is one of two Lower Basin States which would see reductions in Colorado River allocations under a Secretarial shortage declaration. Consequently, water users in the State are participating in two agreements to voluntarily leave water in Lake Mead in order to reduce the risk of future reductions. Under the Pilot System Conservation Agreement and the Lower Basin Drought Response Actions Memorandum of Understanding, water users in Arizona have foregone Colorado River allocations to create so-called "system water" in Lake Mead. Ensuring that this system water is not delivered to another user in the same year that it was created is a top priority for Arizona water users.

I am concerned that the provisions in the *Arizona v. California* (1964) decree covering the delivery of "apportioned but unused water" might be construed to allow delivery of system water for consumptive use in another state. I recently introduced legislation, S. 2902, the Western Water Supply Planning and Enhancement Act that addressed this important issue. Specifically, Section 104 of S.2902 includes guidance to the Secretary in interpreting the *Arizona v. California* decree which clarifies that system water shall not be delivered in the same year it was created. The administration's written testimony from the Water and Power Subcommittee of the Energy and Natural Resources Committee on May 17, 2016 stated that "the Department does not believe this section is necessary ... and is duplicative of currently applicable provisions of Departmental policies and agreements already in force." Having clarity on the Department's position on delivery of system water will help Arizona water users make fully informed decisions regarding participation in existing and future voluntary conservation programs as well as understand the need for possible clarifications through legislative actions. I ask that you explain the Department's policy regarding the possible delivery of system water (created under the two programs described above) pursuant to Article II.B.6. of the *Arizona v. California* decree.

I thank you in advance for your continued time and attention to these issues. As always, I ask that this matter be handled in strict accordance with all applicable agency rules, regulations, and ethical guidelines.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Flake", written in a cursive style. The signature is positioned above a horizontal line.

JEFF FLAKE

United States Senator