

On October 15, the House Natural Resources Committee's Subcommittee on Water, Oceans, and Wildlife held an oversight hearing titled, "Colorado River Drought Conditions and Response Measures - Day One." The first panel included: Tanya Trujillo, Assistant Secretary for Water and Science, Department of the Interior; Daryl Vigil, Jicarilla Apache Water Administrator and Co-Facilitator of the Water and Tribes Initiative in the Colorado River Basin; and Amelia Flores, Chairwoman, Colorado Indian River Tribes.

Trujillo testified that the "...period from 2000 through 2021 has been the driest 22-year period recorded in more than 100 years of record-keeping. The reservoir system was 95 percent full in 2000, but as of September 28th, Colorado River system reservoirs sit at just 39 percent, the lowest levels since they began to fill.... Declining storage levels due to ongoing drought have resulted in reduced hydropower generation efficiency and concerns about approaching minimum power pool at Glen Canyon Dam, below which no power can be produced."

She added, "The Department participates in several points of coordination...to optimize federal drought response - including the National Climate Task Force, the Interagency Drought Relief Working Group, the National Drought Resilience Partnership, the Water Subcabinet, and works directly with federal entities including the Western Area Power Administration. Each...encompass both immediate drought relief as well as long-term drought resilience efforts geared at responding to ongoing climate threats." Through collaborative action, [We] can marshal existing resources and work in partnership with state, local, and Tribal governments to address the needs of communities suffering from drought-related impacts; identify and disburse immediate financial and technical assistance, and develop longer-term measures to respond to climate change, including building more resilient communities and protecting the natural environment." She referred to the Climate Task Force Director's September 15 letter outlining federal drought relief efforts in response to an August 15 inquiry from ten western governors.

Vigil said, "My remarks speak to the past, present, and future role of tribes in Colorado River governance. My key message is that as sovereigns in the basin, tribes - along with federal and state governments - need to be at the decision-making table. Tribes have senior water rights to at least 25% of the current natural flow of the Colorado River but have historically been excluded from decision-making or 'consulted' only after decisions have been made.... It is time to create a new paradigm for governing the use of the Colorado River-one that integrates best available science and indigenous knowledge of the basin...one that involves tribes as active partners in problem-solving, decision-making, and governance."

Flores stated, "Our reservation is separated by more than 70 miles of the Colorado River running through our lands located in both California and Arizona. Since time immemorial, the River has sustained us. I am here today to tell you that we are committed to helping to support the River that has provided for us. The Colorado River is suffering not only from drought but climate change that is forcing all of us to change our relationship with its water. We must use its water more efficiently, and ensure that each drop provides maximum benefits so that others are not cut off entirely."

A second panel of state witnesses included: Tom Buschatzke, Director, Arizona Department of Water Resources; Peter Nelson, Chairman, Colorado River Board of California; John Entsminger, General Manager, Southern Nevada Water Authority; Rebecca Mitchell, Director, Colorado Water Conservation Board; John D'Antonio, New Mexico State Engineer; Gene Shawcroft, General Manager, Central Utah Water Conservation District; and Pat Tyrrell, Wyoming's Upper Colorado River Commissioner.

Buschatzke testified, "Arizona has been under an emergency drought declaration since 1999...pursuant to a recommendation from the Governor's Drought Interagency Coordinating Group. The declaration relates to local conditions 'on the ground' in Arizona as well as drought impacts to water supplies.... Water managers have been cognizant of the risks to the water supplies provided by the River for decades and have taken numerous actions to address these risks." He described development of Arizona's groundwater law and recharge efforts, the Lower Basin Drought Contingency Plan (DCP), and the creation of intentional created surplus (ICS) water through conservation. He observed, "Natural flows in the Colorado River have decreased from the long-term average of 14.8 million acre-feet per year to an average of 13.3 million acre-feet per year over the last 30 years. Future flows of the Colorado River are predicted to be even less." In 2022, DCP Tier I reductions mean "...Nevada will leave 21,000 acre-feet in Lake Mead; Mexico will leave 80,000 acre-feet in Lake Mead; and Arizona will leave 512,000 acre-feet in Lake Mead. These are significant reductions for our water users."

Nelson called this a "millennium drought," one of the worst in 1200 years. "Over the past several decades, the Basin has experienced a noticeable shift to hotter, drier conditions, which are straining an already over allocated system.... While direct causality of increasing temperatures and reduced water supply in the Basin may not always be clear, the

implications of the available climate-change science and data can no longer be ignored.” He summarized California’s long history of development and use of Colorado River water since 1870, adding “...collaboration and cooperation have been the primary tools utilized by the Basin states” to address basin challenges. He noted, “California Governor Newsom’s Administration has prioritized water management as crucial to the State’s economic, ecological, and social well-being.” Of note, on October 19, Governor Newsom issued a proclamation extending the drought emergency statewide and further urging Californians to step up their water conservation efforts.

Entsminger observed, “The math problem we face is quite simple. If we rely on the promises of the 1920s and 1940s, there are legal entitlements to use 17.5 million acre-feet of water each year. Today, use is approximately 14.0 million acre-feet per year. Over the last 20 years, the river has given us an average of 12.3 million acre-feet per year. Despite the fervent warnings..., the river community is far from consensus about how dry of a future to plan for.... We must develop additional supplies, pursue aggressive conservation, and make investments in technologies and tools that show promise helping us do both. It is well known that agriculture uses approximately 80 percent of the river’s flow. The remaining goes to municipal users. As we have learned from supply chain disruptions over the last 18 months, agricultural and urban sectors must work together to reduce water use....”

Mitchell testified, “The Basin States negotiated the 1922 Colorado River Compact to: (a) provide for greater certainty and security for all states who rely on the water; (b) eliminate pressures to race to develop uses; (c) allow Upper Basin States to develop supplies at their own pace and safeguard water for future uses; (d) allow the states to determine how the water would be divided and apportioned amongst themselves in perpetuity; (e) maintain state autonomy; and (f) promote interstate comity and remove causes of present and future controversies.... In this context, it is important to understand the significant differences between the operations and systems in the Lower Basin States (Arizona, California, and Nevada) and the Upper Basin States (Colorado, New Mexico, Utah, and Wyoming). Lakes Mead and Powell both sit above all Lower Basin water uses and below the Upper Basin uses. Having these large reservoirs above them has meant that the Lower Basin States have had certainty and security in their water deliveries.... In contrast, water users in the Upper Basin States have taken shortages nearly every year for over twenty years.... Upper Basin water users are reliant upon current runoff from snowpack and water users are only able to use water from that snowpack in that particular year. Upper Basin water users frequently do not received the full amount of water to which they are legally entitled.... Multiple years of shortages have resulted in many Coloradans facing heartbreaking decisions.”

D’Antonio added, “One of the original intents of the 1956 Colorado River Storage Project Act was to allow the Upper Division States to fully develop their apportionment. To date, however, the Upper Division States have not fully developed their apportionment due, in part, to the fact that water users in the Upper Basin seldom have sufficient water to fully use their water rights in any given year. New Mexico’s Upper Basin water use is currently about half of its apportionment. Most of New Mexico’s future development plans in the Upper Basin are for tribal water development pursuant to Indian water rights settlements.... Those communities have been hit particularly hard by the drought and COVID-19 pandemic.” He suggested that prolonged dry periods will be punctuated by wet periods and called for “...retaining the flexibility for the States to develop their authorized amounts, particularly during the good years. Striking such a desired balance, however, will be no easy task.”

Shawcroft observed, “Utah and the other Upper Division States have watched our available water supplies dwindle as the prolonged drought has continued. North facing mountains used to store snow through late summer keeping our mountain streams flowing year-round. Today the mountains are bare and many streams flow at a trickle.... The District has aggressively pursued dozens of water efficiency projects and today we conserve nearly 140,000 acre-feet per year...achieved at a combined local and federal cost of nearly \$230 million in both agricultural and municipal projects. This 140,000 acre feet of conserved water annually is 30,000 acre-feet more than the District’s total trans-basin diversion from the Colorado River of 101,900 4 acre-feet per year. Without this conservation effort over the past 30 years, Utah would be severely handicapped.”

Tyrrell testified, “Water users in Wyoming continue to experience significant water shortages due to the extremely dry conditions. Currently, all of Wyoming’s Colorado River Basin is suffering from either severe or extreme drought.... Drought response operations are a first line of defense to protect critical elevations at Lake Powell. But that existing storage is not infinite and cannot protect Lake Powell under many of the dry scenarios now being projected. If dry conditions persist or worsen as many project, existing storage will diminish or be inadequate, and the Upper Basin may ultimately need to reduce its uses to comply with the 1922 Compact.... The effects of these conditions are not limited to an isolated region but extend across the entirety of the Basin. Drought response measures must equally stretch across the entirety of the Basin. It is also imperative to recognize that not all the actions can be implemented uniformly across the Basin. Success will require development and implementation across federal agencies in cooperation and partnership with the Basin States, Tribes, water users, and other stakeholders.” All the testimony is available at <https://naturalresources.house.gov/>.