



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

682 East Vine Street / Suite 7 / Murray, UT 84107 / (801) 685-2555 / Fax 685-2559 / www.westernstateswater.org

Chair - Jon Niermann; Executive Director - Tony Willardson; Editor - Michelle Bushman; Subscriptions - Julie Groat

ADMINISTRATION/WATER RESOURCES **Bureau of Reclamation/Colorado River**

On October 20, the Bureau of Reclamation (USBR) published a notice of a final Scoping Summary Report in the Federal Register, Colorado River Reservoir Operations: Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead (88 FR 72535). According to the notice, the Report “provides a summary of the comments received during the public scoping process and describes the [Department of Interior’s (DOI)] current, preliminary assessment of the proposed federal action, purpose and need, and scope of the environmental analysis to be included in the draft environmental impact statement (DEIS). [DOI] anticipates the DEIS will be published in December 2024 for public review.”

The Administration’s announcement noted that these next steps in developing future operating guidelines and strategies to protect the stability and sustainability of the Colorado River system will leverage the historic investments from the Infrastructure Investments and Jobs Act, or Bipartisan Infrastructure Law (BIL), and the Inflation Reduction Act (IRA). This includes \$8.3B in BIL funds over five years for water infrastructure projects, including water purification and reuse, water storage and conveyance, desalination and dam safety. An additional \$4.6B in IRA funds will address the historic drought, including water conservation efforts across the basin. These investments are being deployed “to help increase water conservation, improve water efficiency, protect critical environmental resources, and prevent the Colorado River system’s reservoirs from falling to critically low elevations that would threaten water deliveries and power production.”

To date, the DOI has announced the following investments in Colorado River Basin States, which will yield hundreds of thousands of acre-feet of water savings each year: (1) \$281M for 21 water recycling projects that are expected to increase annual water capacity by 127,000 acre-feet annually; (2) up to \$233M in water conservation funding for the Gila River Indian Community, including \$83M for a water pipeline project and an additional \$50M from the Inflation Reduction Act

through the Lower Colorado River Basin System Conservation and Efficiency Program, which will also provide similar investments in 2024 and 2025; (3) over \$73M for infrastructure repairs on water delivery systems; (4) \$71M for 32 drought resiliency projects to expand access to water through groundwater storage, rainwater harvesting, aquifer recharge and water treatment; (5) \$50M over the next five years to improve key water infrastructure and enhance drought-related data collection across the Upper Colorado River Basin; (6) \$20M in new small surface and groundwater storage investments; and (7) eight new System Conservation Implementation Agreements in Arizona that will commit water entities in the Tucson and Phoenix metro areas to conserve up to 140,000-acre feet of water in Lake Mead in 2023, and up to 393,000-acre feet through 2025.

Deputy Secretary Tommy Beaudreau emphasized the collaborative work with States, Tribes, and local communities, and the importance of these investments. “As [DOI] works with those partners to stabilize the Colorado River in the short-term, we are also committed to ensuring the long-term sustainability of the Basin for decades to come based on the best-available science and with robust input from stakeholders across the West.” www.usbr.gov/newsroom/news-release/4655

The Colorado River Basin supplies approximately 40M people and 30 Tribal Nations, nearly 5.5M irrigated acres, and habitat for ecological resources across parts of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, as well as Mexico. Prolonged drought and climate change with low runoff conditions over more than two decades resulted in historically low reservoir levels at Lake Powell and Lake Mead.

Based on a forecast of 13.6 Maf (million acre-feet) of inflow for Water Year 2023, USBR’s September 24-Month Study estimates Lake Powell’s elevation at near 3574.31 feet with approximately 8.85 Maf in storage (38 percent of capacity). On October 2, the Colorado Basin River Forecast Center, projected that the most probable (median) unregulated inflow volume for Water Year 2024 will be 9.4 Maf (98 percent of average). www.usbr.gov/uc/water/crsp/cs/gcd.html

Earlier this year, as part of a separate effort, the Administration brought together stakeholders from across the Basin to build a consensus for water conservation efforts through the end of 2026. By the end of October, the DOI will issue a draft Supplemental Environmental Impact Statement (EIS) to revise the December 2007 Record of Decision, which will set interim guidelines through the end of 2026.

USBR Commissioner Camille Touton said: “The Colorado River Basin has come together over the past year to create a consensus path in the short term that now allows us to focus on the future. Today’s next steps for post-2026 planning helps continue the momentum between all stakeholders across the Basin on what the future operations of this critical system will look like. As the range of alternatives is developed, Reclamation is committed to a collaborative, inclusive and transparent process with our partners, stakeholders and the public.”

The post-2026 process is a multi-year effort that will identify a range of alternatives and ultimately determine operating criteria for Lake Powell and Lake Mead and other water management actions, potentially for decades into the future. Using the best-available science, USBR will analyze future operational guidelines and alternative strategies that can be sufficiently robust and adaptive to withstand a broad range of hydrological conditions and ultimately provide greater stability to water users and the public throughout the Colorado River Basin.

Bureau of Reclamation/Water Supply Forecasting

On October 20, the USBR announced it is launching a Water Supply Forecast Rodeo competition with a \$500,000 prize pool to spur innovation and advancements in methods for seasonal prediction. “Seasonal water supply forecasts are critical to informing water management and operations across the Western U.S.,” said USBR Chief Engineer David Raff. “Improving seasonal forecasts will allow water managers to better meet all of the needs for water including irrigation, hydropower generation, and the environment.” www.usbr.gov/newsroom/news-release/4657

Individuals or teams will work to develop water supply forecast models that predict seasonal runoff volumes at 26 sites across the West, while also characterizing forecast uncertainty and offering insights into forecasted conditions. The competition includes both forecasts and hindcast stages. The hindcast stage is where competitors will demonstrate skill in predicting past conditions and the forecast stage where solvers will predict water supply during the winter and spring of 2024.

USBR is partnering with the U.S. Army Corps of Engineers (Corps), USDA - Natural Resources Conservation Service, National Oceanic and Atmospheric Administration, National Atmospheric and Space Administration’s Tournament Lab, and DrivenData for this competition. To learn more visit: <https://www.drivendata.org/competitions/group/reclamation-water-supply-forecast/>.

CONGRESS

House of Representatives/Appropriations

On October 25, Representative James Michael Johnson (R-LA) was elected as the new Speaker of the House, 22 days after Speaker Kevin McCarthy (R-CA) was removed for agreeing with Democrats to a short-term continuing resolution (CR) to avert a government shutdown. The CR expires on November 17.

On October 26, the House passed the Energy and Water Development and Related Agencies Appropriations Act (H.R. 4394) by a vote of 210-199. The House has now passed five appropriations bills, including Defense, Homeland Security, State-Foreign Operations, and Military Construction-Veterans Affairs.

LITIGATION

WOTUS/*West Virginia et al. v. EPA*

On October 10, the U.S. District Court for North Dakota lifted the stay of litigation in *West Virginia et al. v. EPA* (3:23-cv-00032). The case was filed by a coalition of 24 states, originally requesting that the court vacate the Revised Definition of Waters of the United States (WOTUS) Rule issued in January 2023 (88 FR 3004). The court issued a preliminary injunction on April 12, staying the implementation of the January 2023 WOTUS Rule in the plaintiff states. See WSW Special Report #2546, 2552.

On September 8, the Corps and EPA published a new Revised Definition of Waters of the United States (88 FR 61964) to conform with the May 2023 U.S. Supreme Court ruling in *Sackett v. EPA*, 143 S. Ct. 1322. The district court had issued a stay of the litigation in July, pending the publication of the new conforming September 2023 WOTUS Rule. This stay has been removed.

The district court ordered a deadline of November 13, for the States to amend their complaint to challenge the September 2023 WOTUS Rule. The deadline for federal agencies and intervenor defendants to file their answers is December 13.

The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.