



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION

Waters of the United States

On January 5, WSWC submitted a comment on the proposed rule updating the definition of Waters of the United States (WOTUS)(90 FR 52498). WSWC expressed appreciation for the nuanced questions included in the preamble, emphasizing the importance of states' perspectives on every aspect of the proposed rule. WSWC requested that the agencies take the state co-regulator working schedules into account when determining the timing and length of comment periods for such substantial rule proposals. The letter reiterated the Council's position that agencies should maintain a high standard of cooperative federalism, maintain technical and financial assistance to the states, invest in the development of geospatial mapping of jurisdictional determination data, and consider the development of a dispute resolution mechanism.

CONGRESS/WATER RESOURCES

Finish the Arkansas Conduit Act/Veto

On January 8, the House failed to override the President's veto of the Finish the Arkansas Conduit Act (H.R. 131) in a 248-177 vote. All members of Colorado's congressional delegation voted to override the veto. The bill passed the Senate in December with strong bipartisan support. On vetoing the bill, President Trump said the Arkansas Valley Conduit (AVS) was delayed after its approval in 1962 because it was economically unviable. He noted 2009 legislation that reduced the repayment obligation from 100% to 35% and allowed project revenues to count toward Colorado's cost-share. He objected to the bill extending the repayment period to 75 years and cutting the interest rate. He cited an estimated \$249M already spent and a total cost of \$1.3B. He wrote: "Enough is enough. My Administration is committed to preventing American taxpayers from funding expensive and unreliable policies. Ending the massive cost of taxpayer handouts and restoring fiscal sanity is vital to economic growth and the fiscal health of the Nation."

Governor Jared Polis (D-CO) expressed disappointment in the House vote: "For decades, families

in southeastern Colorado have waited patiently for clean, safe drinking water and, today, Congress failed them. The Arkansas Valley Conduit has united Coloradans across party lines because access to clean drinking water is not a partisan issue — it's a basic responsibility of government.... When a bipartisan coalition comes together in support of rural communities, public health, and long-standing commitments, Washington should be listening. Letting this veto stand puts politics ahead of people and jeopardizes an initiative that is already under construction and long overdue." <https://www.whitehouse.gov/briefings-statements/2025/12/congressional-bill-h-r-131-vetoed/>

Water Resources Development Act 2026

On December 17th, the House Transportation and Infrastructure Committee began the 2026 Water Resources Development Act (WRDA) process with a Subcommittee on Water Resources and Environment hearing on stakeholder priorities. Witnesses included leadership from the National Waterways Conference, the Midwest Flood Control Association, the HNTB Corporation, and the Port of Long Beach. Witnesses emphasized the importance of WRDA and maintaining its two-year cadence to allow long term planning and investment to keep water infrastructure projects moving forward. They expressed support for streamlined permitting reforms, preservation of private-public partnerships, and transparency regarding funding pauses. They also expressed support for expanding innovative contracting and funding mechanisms. Bryan Jones, President of the Mid-Atlantic Division of the HNTB Corporation said: "Legislation that supports tools such as non-traditional funding and innovative project implementation approaches within the Civil Works program can accelerate project delivery, reduce risk and improve overall outcomes without diminishing accountability. The Fargo-Moorhead Flood Diversion Project provides an example of how public-private partnerships can leverage non-Federal capital and expertise to advance a complex, nationally significant project, while preserving the Corps' central role in safety, engineering oversight, environmental compliance and protection of the Federal interest."

Chairman Mike Collins (R-GA) said: "WRDA is a critical vehicle to meet the water resources needs in communities nationwide. Reliable water navigation systems allow for the safe and efficient shipping of cargo, fueling our economy. Levees protect homes and businesses from flooding. Dams and reservoirs, like Lake Lanier in Georgia...also provide flood control for communities, electricity, and opportunities for recreation.... An important part of the WRDA process is the partnership between the federal government, non-federal partners, and stakeholders, who come together to solve local water resources needs." See <https://transportation.house.gov/news/documentsingle.aspx?DocumentID=409195>

WATER RESOURCES

Colorado River Water Users Association

On December 16-18, the Colorado River Water Users Association (CRWUA) held its 80th meeting in Las Vegas, Nevada. The meeting brought together state and tribal leaders, negotiators, federal officials, municipal water district leaders, water engineers, ranchers, and tribal members to discuss the management of the Colorado River.

On the first day, Arizona State University law professor, Rhett Larson outlined the basics of the Colorado River Compact including: (1) a history of legal agreements; (2) the 1.5 million acre-feet (MAF) of "structural deficit" built into the Compact; and (3) the mounting water supply constraints due to climate change and population growth. He explained that while litigation can help break up impasses and lead to settlement, it can also take much longer than the current situation can afford. "The best thing that we can provide right now is greater certainty, even if it's not the best kind of deal we can come up with. Water doesn't lend itself well to crisis management. It requires long-term planning.... If you really value peace and certainty, now's the time to show how much you value it by what you're willing to sacrifice in order to get it."

Anne Castle, University of Colorado, moderated a panel on Colorado River events since 2007. Jim Lochhead presented an Upper Basin perspective, provided background on the 2007 Guidelines, described operational and legal challenges, and urged experimentation and basin-wide collaboration. He recommended adopting a clear operating curve for Lakes Powell and Mead and accepting the Lower Basin's proposal of 1.5 MAF in annual cuts to address the structural deficit. Kightlinger outlined Lower Basin priorities, the 2003 Colorado River Quantification Settlement Agreement (QSA) in California, the development and use of Intentionally Created Surplus (ICS) banking, and shortage-sharing design. He advocated for immediate action, calling on states to "just do it," referring to the 1.5 MAF reduction plan, and the Upper Basin's proposal to implement large-scale conservation programs.

Eric Kuhn, Colorado River Water Conservation District; Sarah Porter, Arizona State University; and Jack Schmidt, Utah State University gave a current analysis of Colorado River basin storage conditions. Schmidt outlined a September whitepaper by the Colorado River Research Group (CRRG) examining near-term water supply conditions. Using a simple water-budget approach for 2020–2025, the study estimated average annual deficits of approximately 1.5 MAF, with the potential to rise to 3.6 MAF if current conditions continue. Schmidt emphasized that about 11 MAF of storage in Lakes Powell and Mead is rife with operational and legal complications. He also noted that fall rains and reduced Hoover Dam releases briefly slowed reservoir declines, showing that operational changes can quickly affect storage. Eric Kuhn explained the significant risk of another dry year, citing low snowpack, vacant upstream reservoirs, low soil moisture, and ocean conditions. He warned that maintaining Lake Powell above minimum power levels could require difficult choices. Porter added that drought risks extend beyond the Colorado Basin, noting the California's State Water Project is also impacted by a poor snow year, which could force decisions that will impact reservoir levels, such as ICS. She also highlighted that the timing of the upcoming midterm elections could complicate negotiations. Overall, the panel emphasized the need for states to accelerate collaboration and conservation efforts.

Gene Shawcroft (Utah) reported that 93% of Utah is currently experiencing drought. He highlighted that the Utah legislature has authorized over \$500M for conservation, including a pilot demand management program expected to save approximately 20,000 acre-feet. Shawcroft noted that these conservation volumes are small and that actual water yields can be unpredictable, as seen when one project delivered less than 25% of expected water. He emphasized that the "upper initial units" of the Colorado River Storage Project—including Blue Mesa, Flaming Gorge, and Glen Canyon reservoirs—are critical to Upper Basin resiliency, a nod to the 2022 instance when the basin states and Reclamation coordinated releases from Flaming Gorge to protect Lake Powell's infrastructure. Shawcroft argued these reservoirs should be viewed as a "one time Band Aid" rather than a permanent solution for other deficits, but he affirmed Utah's willingness to take temporary actions to protect Glen Canyon Dam. Utah remains committed to reaching a seven-state consensus agreement by the federal February 14 deadline.

Brandon Gebhart (Wyoming) acknowledged demand-reduction efforts of lower basin states. He highlighted Wyoming's efforts to develop conservation tools, including its participation in the Upper Colorado River Basin System Conservation Pilot Program (SCPP). Wyoming users conserved 37,600 acre-feet from 52 different projects, totalling about 25% of Wyoming's post-Compact use. He said: "I made a promise to develop a consensus solution and I intend to do everything in my power to keep that promise. We need to remember that hydrology is the problem. It's not

political positions. It's not legal interpretations. It's not one state. It's the entire basin, the hydrology of the entire basin. That is the problem we're solving." Gebhart also expressed the state's willingness to continue temporary actions using upper initial reservoir water to protect critical elevations at Glen Canyon Dam, provided reservoir purposes are maintained and efforts are matched across the basin.

JB Hamby (California) argued that California faces the greatest risk from Colorado River shortages due to its large population and agricultural significance. He highlighted the Lower Basin's 1.5 MAF proposal and noted that California has contributed 440,000 acre-feet beyond its legal obligations. Hamby stressed that these efforts were intended to foster basin-wide cooperation and that responsibility for addressing shortages must be shared across all states.

Becky Mitchell (Colorado) highlighted the "pain" the Upper Basin has endured under strict administration over the past 20 years, with users facing an average annual shortage of 1.3 MAF, allowing over 8 MAF to flow out of Colorado every year. She acknowledged the Lower Basin's proposal to address the structural deficit as a significant step but stressed that nature is demanding even more. Mitchell emphasized Colorado's conservation efforts, including \$127 million in grants through the Colorado Water Plan, and advocated for creating "deferral pools" in Lakes Powell and Mead to recognize both developed and undeveloped tribal water rights. She said: "I remain optimistic, not because we know the exact solution, but because we're still at the table and we have no choice. Mother Nature will win this battle. She will win it over and over again. She will continue to give us the lessons that we do not learn and, until we learn them, they will be here for us. So although these are challenging times, I do remain optimistic. I'm hopeful that the seven basin states and my Colorado River family can do something and we can do it together."

Tom Buschatzke (Arizona) highlighted Arizona's contributions of 5.5 MAF over the past decade through conservation and mandatory cuts. For Arizona to agree to a deal, especially one that includes the Upper Basin's ask for a waiver of compact compliance, Buschatzke said it would require a commitment of releases from the upper initial units to stabilize Lake Powell when necessary. Arizona is also seeking verifiable, mandatory conservation applied to water users in the Upper Basin, along with equal shortage-sharing if cuts beyond 1.5 MAF are required. Any agreement involving a compact waiver would require legislative approval in Arizona, and Buschatzke emphasized that current Upper Basin proposals are insufficient to secure that approval. "We put substantial volumes of water on the table. We will

continue to be at the table and try to move forward in these negotiations, to come up with something that we all can live with. Hopefully next year, at this time, we [will be] standing here saying we achieved that end."

Estevan López (New Mexico) emphasized the importance of water users and that tribal users are the most senior in the system, yet many don't have quantified water right settlements. Despite that, they're willing to participate in finding solutions. He shared his experience with interstate litigation over Rio Grande conflicts, highlighting the tens of millions of dollars spent and the significant uncertainty during the 14 years of litigation. He said "If we sink into litigation here – that's probably the absolute worst outcome we could have. There will be no certainty for perhaps a decade. I heard the average litigation is eight years. I don't think we have two years to waste." He noted that New Mexico has voluntarily contributed water beyond compact requirements, including through an innovative lease with the Jicarilla Apache Nation to build a "contribution" reserve pool. He argued that New Mexico has not been able to develop their full compact apportionment because of hydrology, with an average shortage of 1.3 MAF, a 25% reduction which he argued is "as mandatory as anything anybody will ever face." López expressed cautious optimism, believing that a path to consensus is still possible if states acknowledge each other's contributions and commit to collective action.

John Entsminger (Nevada) noted the pattern of the discussion – tout accomplishments, express the growing difficulty to do more, and then argue that others should contribute more. "As long as we keep polishing those arguments and repeating them to each other, we are going nowhere." He argued that a long-term, multi-decade agreement is no longer realistic given the deadline and current hydrology. He proposed a practical five-year operating plan including essential elements such as: (1) a Powell-to-Mead release curve; (2) Colorado River Storage Project (upper initial units) reservoir operations; (3) upper basin actions; (4) lower basin actions; and (5) rules for storing water in both basins (pools and ICS.) "Which one of those five elements are you willing to die on the hill for? Because none of them are worth it. None of them are worth driving the car into the ditch for. We're all in the same rowboat. The first one to fire a shot puts a hole in the boat and sinks it."