



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS/CONGRESS **Drought Contingency Plans/Colorado River Basin**

On March 19, seven Colorado River Basin States Governors' representatives and key water districts formally submitted Drought Contingency Plans (DCPs) to Congress for immediate consideration. Signing the letter requesting action were: Thomas Buschatzke, Director, Arizona Department of Water Resources; Peter Nelson, Chairman, Colorado River Board of California; L. James Eklund, Colorado Commissioner, Upper Colorado River Commission; John J. Entslinger, General Manager, Southern Nevada Water Authority; John D'Antonio, New Mexico State Engineer; Patrick Tyrrell, Wyoming State Engineer; and Eric Millis, Director, Utah Division of Water Resources.

The letter declared, "Over the past quarter century, the seven Basin States have worked together to better manage and share the waters of the Colorado River. Each Basin State has its own unique considerations and challenges. Historic dry conditions and the resulting decline in water supply in each of the States has contributed and will likely continue to contribute to significant economic, environmental and other impacts throughout the Basin. We support regional, state and local stakeholders in ongoing efforts to obtain federal funding through existing or future programs to help address those impacts. We appreciate your support in advancing federal legislation that would allow us to implement the DCPs upon our execution of those agreements.... We look forward to working with you in this critical effort."

The Department of the Interior commended the Basin States and key water contractors on this important milestone. Given their successful efforts to reach consensus on the DCPs, the Department, by this statement, terminates its request for input from the Colorado River Basin States, as the immediate completion and implementation of the DCPs demonstrates the best path forward to: a) reduce the risks the Colorado River Basin is facing, and that b) can be adopted prior to the August 2019 determinations of operations for Lake Powell and Lake Mead in 2020. <https://www.usbr.gov/dcp/>

On March 22, the WSWC wrote the House Natural Resources Committee's Subcommittee on Water, Oceans and Wildlife and the Senate Energy and Natural Resources Committee's Subcommittee on Water and Power, expressing strong support for the drought contingency plans and necessary legislation.

On March 28, the Subcommittee, Chaired by Rep. Jared Huffman (D-CA), held a hearing on the plan, with testimony presented by Brenda Burman, Commissioner, U.S. Bureau of Reclamation, and each of the plan signatories (A March 27 hearing was held by the Senate Energy and Natural Resources Committee's Water and Power Subcommittee) Huffman noted the basin has been in drought for 19 years, leading to a decline in Lake Mead to the point it is hovering around levels (41% of capacity) that would trigger mandatory water use cuts. The river supplies water to 40 million people in major cities, as well as 29 tribes, irrigates 5.5 million acres and supports a \$25B outdoor recreation economy. "[That] is a lot riding on a river that since the turn of the century has seen an 18% decline in flows...."

Burman testified, "Collectively, these elements of drought response actions in the Upper Basin, Lower Basin and Mexico would cut the risk of Colorado River reservoirs reaching critically low elevations by approximately 50 percent. These are critically important actions and Interior believes these efforts need to be implemented this year to provide the maximum benefits in terms of water conservation opportunities and associated risk reduction."

Buschatzke stated, "The two DCPs work together to benefit the Colorado River system. The State of Arizona supports the implementation of both plans. The DCPs are the latest examples of the Seven Basin States working together with the Bureau of Reclamation to achieve agreed-upon solutions to issues facing the states regarding the Colorado River."

D'Antonio added, "The DCPs are needed and appropriate tools, developed by consensus between seven States, to reduce the negative impacts of this continuing drought on cities, farmers, Tribes, and the environment.... [T]he DCPs will be exercised within the constraints of existing environmental laws...."

Eklund declared, "Working together, we have developed a sound plan for protecting the storage in both Lake Powell and Lake Mead in the face of historic drought conditions and we have done so without infringing upon the water rights of those that rely on the Colorado River."

Entsminger observed, "The Southern Nevada Water Authority (SNWA) serves 2.2 million people in Southern Nevada – more than 70 percent of our State's total population. We are dependent on the Colorado River for 90 percent of our municipal water supply. As the only major metropolitan city located on banks of the river, our community is highly aware that bold action is required – both inside our community and beyond the borders of our state – to respond to severe and sustained drought conditions affecting much of the American Southwest."

Millis explained, "The Colorado River provides a significant amount of water to Utah, comprising approximately 22% of the State's total water supply. This water is used largely by agriculture in the eastern part of the State, but is also the supply for the Central Utah Project, a trans-basin diversion which conveys water to the Wasatch Front.... Given needs, which will only increase over time, protection of this water supply for Utah water users is essential.... Involuntary curtailment is undesirable because it....would be financially devastating to businesses, individuals and communities...."

Nelson stated that implementation of the Lower Basin DCP this year would: "Provide operational certainty regarding Intentionally Created Surplus (ICS) conserved water supplies if Lake Mead declines below elevation 1,075 feet; reduce the risk of Lake Mead dropping below the critical elevation of 1,020 feet from over 40% without the DCP to about 5% with implementation of the DCP; and incentivize the conservation and storage of water in Lake Mead this year with the assurance of greater flexibility in storage and recovery of ICS supplies."

Tyrrell concluded, "The Colorado River Basin needs the DCPs implemented now. [It] has experienced 19 years of drought. Our current operating rules cannot sufficiently address one of the worst drought cycles over the past 1,200 plus years. The entire system faces a crisis that cannot be remedied by one or two good water years. Two countries, seven states, ...an economy of \$1.4 trillion dollars per year, and all that rely on the Colorado River need a plan. They all need a plan now."

CONGRESS/WATER RIGHTS

Indian Water Rights Settlement Extension Act

On March 28, House Natural Resources Committee Chair Raúl M. Grijalva (D-AZ) and Senator Tom Udall (D-NM), the Vice Chairman of the Senate Committee on

Indian Affairs, introduced the Indian Water Rights Settlement Extension Act to fund water infrastructure projects in tribal communities. "In the West and in Indian Country, these settlements play a critical role in communities' long-term economic sustainability. This legislation will provide predictable and reliable funding for current and future Indian water rights settlements, curtailing the use of securing water rights through costly litigation, while protecting the Bureau of Reclamation's budget....the importance of providing certainty to our communities cannot be overstated," said Udall. "Water is a basic necessity, and tribes shouldn't have to fight for access to basic necessities," Grijalva said. "This bill gives tribes the resources they need to build and improve their water systems, sustain cultural practices, improve health, welfare and agriculture, and help their economies grow."

Tribal water settlements involve negotiations between tribes, the federal government, states, water districts, and private water users, among others, to determine specific terms of water allocation and use. Negotiated settlements are the preferred course for many tribes because they are often less lengthy and costly than litigation, are more flexible, and result in real "wet" water. However, tribes often cannot immediately get water delivered to their homelands without additional steps being taken to secure federal funding for water infrastructure. The Grijalva-Udall bill offers funding necessary to implement finalized settlements. Many tribes lack up-to-date water infrastructure, and some tribal members live without running water in their homes. This lack of infrastructure harms tribal health, educational outcomes, and overall economic development.

Congress created the Reclamation Water Settlement Fund in 2009 and directed deposits of \$120 million per year from 2020 through 2029. Most of that funding has already been committed to certain water rights settlements. The Act will extend funding so that additional tribal water settlements can be implemented. Support for extending the Reclamation Water Settlement Fund are: the National Congress of American Indians; Native American Rights Fund; Navajo Nation; the 20 Governors of the Sovereign Pueblo Nations of New Mexico and Texas; the Confederated Salish and Kootenai Tribes of the Flathead Nation; Fort Belknap Indian Community; Hualapai Tribe of Arizona; Tohono O'odham Nation; Ute Indian Tribe; Western States Water Council; Association of California Water Agencies; California Association of Sanitation Agencies; Metropolitan Water District of Southern California; Salt River Project; Family Farm Alliance; and Truckee-Carson Irrigation District.

A hearing on the legislation is scheduled for April 4, in the House Natural Resources Committee. WSWC Legal Counsel Michelle Bushman is testifying.