

‘I don’t see any path forward:’ Colorado River talks at an impasse

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States sharing the Colorado River's dwindling flows are struggling to agree on a long-term plan to divvy up necessary water cuts. | Mario Tama/Getty Images

Western states are locked in a game of chicken over who should cut their use of the shrinking water supply from the Colorado River — and their impasse could force the Biden administration to step into the politically perilous negotiations.

The increasingly contentious talks have split the states into upstream and downstream factions, which are preparing to offer up dueling proposals to implement the painful cuts in water use needed to adapt as the river continues to dry up over the next several decades. Those proposals are expected ahead of an initial March deadline from the Biden administration, which is trying to push the legal process forward before the end of its first term.

The situation ramps up pressure on Biden's Interior Department to drive negotiators back to the table to salvage the process — [a role it played last year](#) when Arizona and California were feuding over near-term delivery cuts. But the Biden administration is seen as unlikely to take any forceful action ahead of the November election, given that the squabbling players include three swing states and one that is home to many of Democrats' most deep-pocketed donors.

New rules governing water use along the West's most important river must be in place by 2026, when the current ones expire. Failure to reach a deal would almost certainly land the disputes at the Supreme Court, wreaking unprecedented chaos and uncertainty across a seven-state region home to 40 million people, booming urban economies and more than 5 million acres of irrigated agriculture.

The seven state negotiators have not met in person since mid-January. The last virtual meeting called by Bureau of Reclamation Commissioner Camille Calimlim Touton — the top federal official along the waterway — took an acrimonious turn, as disputes over legal issues and technical matters devolved into bickering and political posturing, according to two participants.

The Biden administration has been careful not to call the current juncture a deadline, and the calendar suggests there's time yet for the impasse to be broken.

“The Biden-Harris administration remains committed to ensuring the long-term sustainability of the Colorado River Basin for decades to come based on the best-available science and with robust input from stakeholders across the West,” Interior spokesperson Tyler Cherry said in a statement. “We continue to work with Basin States, Tribes, and other stakeholders to support the exploration and development of a broad range of alternatives and foster collaborative consensus-based approaches to alternative development.”

But negotiators fear that the longer the stalemate continues, the harder it will be for them to compromise later since any deal will have to be sold at home to the cities, farmers, tribes and other water users that will have to bear the cuts in water use.

Sentiments among that broader constituency are being hardened by a whirl of public relations campaigns, [incendiary PowerPoint slides](#) and lawyers — so many lawyers — inserting [edgy new legal theories](#) into century-old conflicts.



An aerial view shows the long-depleted Colorado River as it flows between California and Arizona, and an irrigation ditch carrying river water toward Quechan tribal land on May 26, 2023 near Winterhaven, California. | Mario Tama/Getty Images

“We are not pointing in any sort of direction to get to any kind of compromise on anything,” said J.B. Hamby, [chairman of the Colorado River Board of California](#) and the state’s lead negotiator. “The inordinate amount of time being spent on lawyering and PR stuff, I don’t see any path forward.”

The Lower Basin states — Arizona, California and Nevada — were in Las Vegas last week to put finishing touches on their plan, which includes a commitment to reduce use by 1.5 million acre-feet. That’s a massive amount of water equal to 20 percent of their collective annual entitlement to the river. The intent is to resolve a long-standing gap between supply and demand that existed even before climate change, which was due to the fact that evaporation off the reservoirs and leaks from canals haven’t historically been accounted for. That problem has been a major factor in driving reservoir levels to precarious lows in recent years.

But even reductions on that scale may not be enough to stabilize the river in the coming years, according to climate projections. The Lower Basin proposal would have any additional cuts be shared on a one-for-one basis between the Upper Basin and the Lower Basin states.

Tom Buschatzke, Arizona's lead negotiator, told POLITICO, "protecting the river system is the responsibility of all of us, collectively, including the Upper Basin and their water users."

But the upstream states — Colorado, New Mexico, Utah and Wyoming — have dismissed the proposal out of hand, arguing that it isn't equitable since they are using far less water than they are legally entitled to under the 1922 compact that split rights to the river in half between the Upper Basin and the Lower Basin. Upper Basin negotiators argue that they shouldn't face mandatory reductions until the Lower Basin further cuts its water use.

Instead, their proposal is expected to tie their releases from the key upstream reservoir at Glen Canyon dam to precipitation and inflows, pushing severe reductions in Lower Basin consumption. Upper Basin contributions would be largely voluntary water savings programs.

Becky Mitchell, Colorado's lead negotiator for the river, said water users in her state that hold the strongest legal rights still regularly face cutbacks during drought, since they don't have major reservoirs to guarantee supplies.

"We care about this river, we will always be a part of the solution. But we cannot prop up overuse," she said.

Driving the states' negotiating positions is the intense political and economic pain that would come from having to assign water use cuts within each of the states, in particular in Colorado and Arizona, the states that arguably have the most to lose.

Colorado, the largest user in the Upper Basin, is home to booming Front Range communities including Denver and Boulder. But those economic powerhouses would be the first to see cuts under the century-old legal system that governs water use in times of shortage. Instead, it's the agricultural regions on the other side of the Rocky Mountains that hold the most legally-powerful water rights.

That means that if the state were to agree to mandatory reductions, the cities would almost certainly need to acquire or transfer a chunk of that agricultural water, said Eric Kuhn, former head of the state's Colorado River Water Conservation District representing those Western slope counties.

"It's an ugly political mess. It has rural-urban, Republican-Democrat, you name it. It creates a conflict," Kuhn said.

At the negotiating table with her counterparts along the river, Mitchell is seen as a vigorous defender of her state's rights, but at home she's under pressure to act more forcefully to guard the state's water rights, said Andy Mueller, current general manager of the district.

At a recent meeting on the Western slope, “she was getting all sorts of flack for being too weak in the seven-state arena and even being willing to talk about conservation programs within Colorado without bigger reductions in the Lower Basin,” he said. “That’s a widely held belief among water users in the state.”

The internal challenges in Arizona are every bit as treacherous.

The state has already borne the brunt of prior rounds of water use reductions. Phoenix, Tucson, and other municipalities and tribes holding the most legally vulnerable rights to the river will almost certainly be first in line for additional cuts to make up Arizona’s share of the Lower Basin plan. Anything beyond that could cut them off from the river entirely if the Upper Basin doesn’t participate in a substantial way.

The reckoning comes as Democratic Gov. Katie Hobbs is already facing intense pressure over a separate but related [move she made last year to halt residential development](#) in the greater Phoenix area due to lack of groundwater access. Some of Arizona’s Colorado River water is used to recharge groundwater aquifers, and steep additional cuts to those supplies stand to complicate the situation.

Policymakers will have to decide how to balance the water cuts with protecting current users reliant on the river and economic and population growth in Arizona, said Buschatzke, head of the state’s Department of Water Resources.

“We have a big task ahead of us,” he said.

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