

ABSTRACT

What Are the Chances? Evaluating the Risk of Curtailment of Water Rights in the Upper Basin

Authors:

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Proposal:

This proposal is for an oral presentation at the Upper Colorado River Basin Forum, with an accompanying in-depth white paper, on the risk of curtailment to Colorado water rights from Colorado River Compact obligations.

Description of Content:

As the Colorado River shrinks, risk for water users grows. But a lack of understanding about the nature and depth of that risk is hobbling water management adaptations. The 1922 Colorado River Compact – the original governing structure for the Law of the River –has been in place for almost one hundred years. While its allocation provisions continue to underpin annual operations and deliveries in the river system to this day, the enforcement mechanisms that provide for Upper Basin water use reductions have never been triggered. As a result, it is unclear exactly how such enforcement would be implemented in practice. But the impacts of continued development of water within the seven Colorado River Basin States, the reduced flows experienced over the past two decades, and substantial uncertainties surrounding future water supplies have combined to cause the specter of water shortage to loom much more prominently in the evaluation of reliability of water rights in the Colorado River Basin within the State of Colorado.

The Upper Basin Drought Contingency Plan provides for an investigation of “demand management” - temporary, voluntary, and compensated water conservation to create a buffer against the potential for forced curtailment of water rights in the Upper Basin. But determining whether, and if so when, to implement a demand management system also means evaluating the risk of curtailment in the future. How much insurance should we buy, and at what cost? To answer that question, we need to assess the risk of what we’re trying to avoid.

This session and report will address the risks of curtailment to Colorado River sourced water rights within the State of Colorado based on the requirements of the 1922 Compact and other provisions of the governing legal framework, collectively known as the “Law of the River.” The recent hydrology of the river will be placed in its historical context, and the best current

projections of future flows, with dire predictions of reductions in runoff, will be outlined. The goal is to provide a realistic understanding about how future hydrology ripples through the legal framework to impact individual water rights. A description of recent developments designed to bring the system into better balance is included, together with the likely administration of water rights within Colorado should it be necessary to curtail water rights in order to comply with the Law of the River. This session is designed to create a deeper level of understanding about the risk of curtailment as a foundation for better decisions about what kind of avoidance strategies to adopt.