

States near historic deal to protect Colorado River

States and Interior Department are still wrestling over process, compensation for conserving a river that sustains millions

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The Colorado River flowing from Lake Mead toward the Hoover Dam last month. (Etienne Laurent/EPA-EFE/Shutterstock)

After nearly a year wrestling over the fate of their water supply, California, Arizona and Nevada — the three key states in the [Colorado River's current crisis](#) — have coalesced around a plan to voluntarily conserve a major

portion of their river water in exchange for more than \$1 billion in federal funds, according to people familiar with the negotiations.

The consensus emerging among these states and the Biden administration aims to conserve about 13 percent of their allocation of river water over the next three years and protect the nation's largest reservoirs, which provide [drinking water](#) and hydropower for tens of millions of people.

But thorny issues remain that could complicate a deal. The parties are trying to work through them before a key deadline at the end of the month, according to several current and former state and federal officials familiar with the situation.

The Colorado River drought, explained

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Participants are discussing cutting back about 3 million acre-feet of water over the next three years, the majority of it paid for with federal money approved in the [Inflation Reduction Act](#). But the parties are still negotiating how much of those water savings will go uncompensated. In meetings over the last month, representatives for the three states, which form the river's Lower Basin, have also raised doubts about the federal government's environmental review process that is now underway to formally revise the rules that govern operations at Lake Powell and [Lake Mead](#).

State officials have suggested they could make a deal on their own and are resisting a May 30 deadline to comment on the alternatives the federal government has laid out in that process, according to people familiar with the talks. The review process is intended to define Interior Secretary Deb Haaland's authority to make emergency cuts in states' water use, even if those cuts contradict existing water rights.

These developments represent a new phase in the long-running talks about the future of the river. For much of the past year, negotiations have pitted [California against Arizona](#), as they are the states who suck the most from Lake Mead and will have to bear the greatest burden of the historic cuts that the Biden administration has been calling for to protect the river. But these states now appear more united than ever and are closing their differences with the federal government, even as significant issues remain unresolved.

The Interior Department declined to comment on the status of the private negotiations. The Colorado River commissioners from Arizona, California and Nevada also declined to comment.

Some water authorities in the West want to ensure that any deal that emerges would entail binding commitments among the Lower Basin states, which draw from Lake Mead and consume more of the river each year than the states of the Upper Basin: Colorado, New Mexico, Utah and Wyoming.

"We want to support the Lower Basin if they have significant additional reductions, verifiable, binding and enforceable," said Becky Mitchell, Colorado's commissioner for the negotiations. "Are we going to make a choice to do better? If we don't want the secretary to manage us, can we show we can manage ourselves?"

[The Colorado River](#) runs 1,450 miles from the Rocky Mountains to Mexico and is a vital lifeline for cities and farms throughout the West. But climate change has made the region hotter and drier, and exposed how [rules made over a century ago](#) to share the river among Western states are inadequate to keep it from drying up.



Lake Powell and the Glen Canyon Dam are seen from a helicopter in October. (Joshua Lott/The Washington Post)

In June, with Lake Mead and Lake Powell about a quarter full and nearing levels where the hydroelectric dams could no longer produce power, U.S. Bureau of Reclamation Commissioner Camille Calimlim Touton testified before the Senate that states needed to stop using 2 to 4 million acre-feet of water — up to one-third of the entire average annual flow — or the federal government would step in to protect the river.

That testimony launched an intense negotiation over the past year. The states and the federal government have blown past two deadlines to try to reach a deal that worked for all parties. In the fall, Interior began a process to formally revise 2007 rules that govern the reservoirs.

That culminated in an [event last month at the Hoover Dam](#) to mark the release of the [476-page environmental review](#). This document outlined two alternatives for how cuts could be distributed among the states — one that

strictly followed water rights priority, which tend to favor major farming regions over cities; and another that made all Lower Basin states take an equal percentage of cuts. The document also threw down a legal gauntlet: It defended Haaland's authority to make emergency cuts of states' allocations from the river to protect the health and safety of residents, even if it violated the water rights priority system.

The Glen Canyon Dam in Page, Ariz., performed high flow experiments on April 25. (Video: John Farrell/The Washington Post)

But the bleak reservoir levels outlined in that review date back to September and the weather has improved markedly since then. Abundant snow cloaked the Rocky Mountains over the winter and [atmospheric rivers](#) doused [California's drought](#). Water levels in the big reservoirs have [started to rise](#). Colorado River experts have grown increasingly confident that the [most draconian cuts](#) in fact wouldn't be needed, at least this year. And the \$4 billion in federal funding from the Inflation Reduction Act pledged to this problem meant that those who voluntarily gave up their rights to water would be well-compensated for it.

Those conditions helped the Lower Basin negotiators come up with a plan to volunteer about 3 million acre-feet of cuts total until 2026, when a major renegotiation of the rules of the river is scheduled to begin. This scale of cuts is smaller than some of the most dire scenarios outlined in the environmental review if reservoirs had continued to plummet.

Even so, the negotiations have not been easy.

During an April 21 meeting at the Las Vegas offices of the Southern Nevada Water Authority, Lower Basin officials presented their plan to top Interior officials, including Deputy Secretary Tommy Beaudreau — who is the point person for these negotiations — and Touton.

The meeting did not go well. Interior officials opposed the Lower Basin plan that asked for federal compensation for all of its voluntary conservation. There were also disagreements over the environmental review process underway and about which federal officials should be involved in hammering out the solution.

"It got really contentious," said a former senior Interior official, who, like others, spoke on the condition of anonymity to describe private talks. "Clearly there's some control issues going on here."

In describing that period in the talks, one state water official said some in the Lower Basin didn't want to overturn the water rights priority system and agree to enhanced authority of the federal government at a time when reservoir levels are improving.

"The fundamental impasse here is between the feds being able to say what is going to happen versus an agreement the Lower Basin states have come to that's at the same amounts," said the official, who spoke on the condition of anonymity to discuss private negotiations. "The dynamics are a little weird."



Officials listen during a news conference at the Hoover Dam on April 11. (John Locher/AP)

But since then, in a series of meetings and conference calls, including on Saturday, progress has been made on these issues, people familiar with the talks say. During a recent meeting in Phoenix, Interior presented the states a term sheet of what potential conservation and compensation could be. The parties are now discussing getting federal compensation for between 2 to 2.5 million acre-feet out of the 3 million cuts in total, which would amount to at least \$1 billion in federal funds, according to a person familiar with the situation. An acre-foot is about 326,000 gallons, what it would take to cover an acre of land with a foot of water.

The Biden administration wants to deploy much of its Inflation Reduction Act funding to get long-term water savings — such as [investing in more efficient irrigation systems](#) and lining canals — and not simply pay [farmers](#) to temporarily fallow fields for a season or two.

During talks in recent weeks, Lower Basin states have resisted submitting formal comments on the federal government's two alternatives by the May 30 deadline that marks the end of the 45-day comment period. These comments could be used by states to stake out legal positions on matters of water rights priority and federal authority that might push them further from a deal.

Biden administration officials want to continue this federal process to bolster the administrative record and clearly establish the ability to make cuts to protect water supplies in something more formal and enforceable than a handshake agreement among state water managers.

Federal officials have also stressed the importance of the environmental review process as being more transparent and accountable and one that takes input from stakeholders such as the 30 Native American tribes in the Colorado River basin who have often been left out of key decisions in the past.

These questions of process and the balance of power between the federal government and the states still need to be worked out. The approaching deadline has worried some river experts.

"They've got a deal," the former senior Interior Department official said of the Lower Basin states. "What an opportunity lost if this doesn't get solved here in the next couple weeks. I'm afraid we're at the precipice."

Mitchell, the negotiator for Colorado, said the Lower Basin should focus on finding a new relationship with how they use the Colorado River.

"They need to realize that the enemy is not any organization, agency or part of the basin," she said. "The enemy is that the water is not there that they have been using. The enemy is the old way."

