

Arizona, California push study of century-old policy that'd force cuts on upper Colorado River states

Amid stalled negotiations, Lower Basin tries to push Colorado and its Upper Basin partners to compromise by raising the specter of forced cuts under a "compact call." Colorado isn't swayed.



Markers on the side of Glen Canyon Dam near the Utah-Arizona border show the water level of Lake Powell, which sat at about 3,570 feet on Dec. 18, 2023. (Shannon Mullane, The Colorado Sun)

Arizona and California officials are turning to the threat of a “compact call” in the Colorado River Basin to ratchet up the pressure on four Upper Basin states, including Colorado, in stalled negotiations over how the river will be managed in the future.

The century-old legal concept raises the prospect of forced water cuts in the Upper Basin states if inter-basin water sharing obligations aren’t met. The details of how a compact call would work are not entirely clear — it has never been enforced since it was first introduced in the 1922 Colorado River Compact.

In a meeting Monday, Arizona officials said the Upper Basin states could be forced to cut about twice as much water under a compact call compared to cutbacks outlined in a proposal put forward by the Lower Basin states — Arizona, California and Nevada — earlier this year.

The argument is meant to drive home the risk to the basin states if they keep refusing to budge in ongoing negotiations over the river’s future, according to Tom Buschatzke, Arizona’s top negotiator and director of the state’s Department of Water Resources.

“This is something that is necessary to create some risk in both the Upper Division states and the Lower Division states,” Buschatzke said. “We still think that’s the path forward for everyone in the alternatives process ... to feel some risk. That’s what drives negotiations.”

The Colorado River flows from its headwaters in the Upper Basin — Colorado, New Mexico, Utah and Wyoming — through key reservoirs Lake Powell and Lake Mead, three Lower Basin states, the lands of about 30 Native American tribes, and Mexico.

Basin officials are negotiating to replace a set of rules, established in 2007, that outline how the basin manages water in its key reservoirs in times of shortage. After these rules expire in 2026, the next agreement will govern how reservoirs store and release Colorado River water in the midst of a changing climate.

With an already overstretched river — and reservoirs hitting all-time lows — the stakes are high and will impact the water supply that supports 40 million people and Western economies.

States, tribes and interest groups have submitted different visions for how the basin should be managed to the Bureau of Reclamation, which is expected to announce the main alternatives it will consider in December.

If the seven basin states can agree, then the federal government will likely align with their plan, according to several water officials representing their states in the negotiations.

Consensus, however, seems far off. Basin states [released competing proposals in March](#) and have yet to reach a seven-state consensus for how the basin should be managed.

Arizona and California want the Bureau of Reclamation to analyze the compact call scenario as part of its process.

“While we continue to be open to exploring solutions beyond strict Compact compliance, as demonstrated by our proposed alternative, if the Upper Basin isn’t interested in engaging in a compromise, then Compact compliance is required,” JB Hamby, California’s top negotiator, wrote in an email to The Colorado Sun.

Nevada declined to comment.

Colorado officials have said a compact call is a far-off prospect. In fact, the state does not have rules outlining exactly how it would respond to a compact call.

In Arizona, however, communities from Phoenix to Tucson rely on recent water rights that are often first in line for cuts in times of shortage.

"I believe that Arizona is aware that they are at risk ... and this is an effort to look anywhere but (at) themselves," said Colorado River Commissioner Becky Mitchell, who represents Colorado in the negotiations.

What is a compact call?

[According to the 1922 compact](#), the Upper Basin states "will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75 million acre-feet for any period of 10 consecutive years."

Many experts see this as an obligation: The Upper Basin must deliver water to the Lower Basin, and if it doesn't, Upper Basin water users will be forced to cut back.

Similar scenarios have already happened in other parts of Colorado, including the Upper Rio Grande Basin and the Arkansas River Basin, where Colorado water users have had to cut back their water use to ensure other states get their legal share.

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Some experts consider legal arguments based on the phrase “will not cause,” suggesting there might be a loophole in the obligation if another cause — like climate change — is driving the river’s depleted flows.

Buschatzke believed the Bureau of Reclamation was studying its authorities and obligations for enforcing such a call, he said. The bureau did not respond to a request for comment Monday.

Hamby of California said the risk of a compact call is far from hypothetical, and it has long been an “elephant in the room” on the Colorado River.

“They could disrupt major metropolitan areas like Denver and provoke serious conflicts between senior agricultural users and junior urban users within the Upper Basin,” he wrote.

This map illustrates the Colorado River Basin, a critical water source for the southwestern United States and northern Mexico. The basin is divided into an Upper Basin (shaded pink) and a Lower Basin (shaded purple). Major dams are marked with red lines, including Fontenelle Dam, Flaming Gorge Dam, Glen Canyon Dam, Hoover Dam, and several others. Major diversions in the Lower Basin are shown with orange lines, such as the Colorado River Aqueduct and the Central Arizona Project. The map also shows areas outside the basin receiving water (light blue) and Native American lands (light purple). Key cities and geographical features are labeled, including Salt Lake City, Denver, Las Vegas, Los Angeles, San Diego, Phoenix, and the Gulf of California. The map includes state abbreviations (ID, WY, UT, NV, CA, AZ, NM, CO) and the names of the United States and Mexico.

The committee, convened by the state water department and Central Arizona Project, is made up of more than 40 delegates from the state legislature, tribal nations, municipalities, agricultural groups, water agencies, electricity providers and others.

"This compact compliance, and this enforcement, is a really big issue for me," Buschatzke said to the group. "I would like to know what kind of support — if we have to get into that kind of fight — we have from Arizona, from this group?"

About 12 delegates offered public support for the state's strategy during the meeting, including Pinal County agriculture, the Arizona Water Company, Mohave County, Tucson Water, Phoenix Water Services and the Southern Arizona Leadership Council.

The Arizona Congressional delegation is also "hugely supportive of the compact compliance pathway," Buschatzke said.

Gov. Stephen Roe Lewis, representing the Gila River Indian Community, also voiced support while advocating for a neutral federal pool of water to help address Colorado River issues.

"We're still very far apart, particularly given the current position of Upper Basin states," Lewis said during the

meeting. "Given the current situation, the Community strongly supports Arizona's and the Lower Basin states' position that compact compliance needs to be something that ... the U.S. analyzes as a potential outcome."

Arizona is already requesting money to pay lawyers. In September, the Arizona Department of Water Resources requested about \$1 million for potential Colorado River litigation to be approved by Arizona Gov. Katie Hobbs.

"I do not want litigation. There is uncertainty we see in other basins — judges running rivers — and it's not good for anybody," Buschatzke said. "But if we get backed into a corner and that's our only choice... that was the context of that budget request."

California stakeholders also support modeling a compact compliance scenario as part of the post-2026 planning process, Hamby wrote.

What Colorado says

When asked if the Lower Basin officials' strategy to leverage the threat of a compact call would persuade her to budge, Mitchell simply said, "No."

"This is being used as a distraction from where the major issue is: That's between California and Arizona and how they

will address (having) less water available," Mitchell said.

Arizona's water is vulnerable in a system where other states and water users have older and more senior water contracts, and they are looking for ways to mitigate that risk, she said.



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When it comes to making water cuts, the Upper Basin already does not use its full water allocation, and each year, some of its water users are still cut off early because they do not have immense reservoirs upstream to provide a stable flow of water, Mitchell said.

The Lower Basin has promised to reduce its use by over 1 million acre-feet, but that primarily accounts for water lost to evaporation and transit. The Upper Basin already accounts for that, she said.

Still, the Upper Basin states have listed ways in which they plan to make voluntary reductions in water use — and they have already taken action through conservation programs, like the System Conservation Pilot Program.

"It's important to recognize they are conserving for their own future use. When we're conserving, we're also conserving for their use," Mitchell said. "The flexibility that they're asking for is not ... for the system, but for their continued and

sustained use."

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