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Arizona braces for water war

\$1.5 million sought to fight Colorado River lawsuits

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Arizona has created a legal defense fund to protect its Colorado River allocation in the event a simmering dispute among other states flares into a regional water war.

The state hopes to raise at least \$1.5 million in the coming months to prepare for possible lawsuits, though officials admit costs could climb many times higher if the dispute spills into a courtroom.

At stake is Arizona's ability to grow. A worst-case loss in court could force the state to give up half of the water that flows through the Central Arizona Project Canal and leave it in reservoirs to benefit upstream users or satisfy a treaty with advertisement Mexico.

Most of that water is now reserved for cities in Maricopa, Pima and Pinal counties or set aside to settle claims with Indian tribes.

Representatives from all seven Colorado River states will meet today in San Diego to consider a plan that might solve some of the issues without legal action. The plan is aimed at wringing every possible drop from the river even if it means punching holes in clouds.

The states hope to submit their proposals to Interior Secretary Gale Norton next week as part of a larger effort to create a long-term drought plan for the Colorado. Drought and growth have pushed the river past its limits and renewed tensions among the states, whose bickering dates back decades.

Without a workable plan, "litigation is inevitable at some point," said Herb Guenther, director of the state Department of Water Resources. "We've been staring at it for a long time. But we're trying to avoid the head-on collision and see if we can't work together on these issues."

Guenther's agency ponied up the first \$200,000 for the defense fund, and the state will ask boards governing the CAP and Salt River Project to contribute similar amounts. Guenther said a fund-raising committee will then seek donations from others with a stake in the river, including cities and home builders.

The state has also retained a lawyer who specializes in water to help with legal research and planning.

The decision to begin raising money for legal action pushes Arizona further into a battle that it had largely avoided in recent years, though the state is certainly no stranger to river wars. *Arizona vs. California*, a landmark case that helped define the way the Colorado is managed, grew out of Arizona's refusal to ratify the original river compact.

"The Colorado River is extremely important to the state of Arizona," said John Sullivan, associate general manager of SRP's water group and a member of the fund-raising committee. "When other states begin to make noises about threatening Arizona's supply, I think the whole state needs to get involved."

The threat stems from arguments over how the river and its tributaries are

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divided among users. In states along the upper river, which include Colorado, Wyoming, New Mexico and Utah, water taken from tributaries is counted against the states' shares.

In states on the lower river - Arizona, Nevada and California - tributaries are not included in the accounting. That means Arizona, the primary beneficiary to the difference in rules, can use water from the Salt and Verde rivers, for example, and still take its full share of the Colorado.

Arizona won the tributary issue during negotiations over the original Colorado River compact, the set of laws and agreements that governs the river. But, in recent years, Colorado and other upper river states have argued that the lower river states have abused the rule and, as a result, take more than they should.

What may force the argument to the table is a plan by Nevada to divert water from the Virgin River to thirsty Las Vegas, which has exhausted its Colorado River allocation. The Virgin flows into the Colorado at Lake Mead.

Officials from Colorado and Wyoming protested the proposal, telling federal regulators it would rob the Colorado River of a significant amount of water. Those states say that, because the Virgin flows into the Colorado, any water taken from it should be counted against Nevada's share.

Arizona officials fear that, if the dispute over the Virgin River lands in court, the upper river states could demand that other states account for water taken from their tributaries. In addition, the upper river states could ask the court to force the lower river states to deliver all the water that Mexico gets from the Colorado, an obligation all seven states now share.

State officials believe as much as 750,000 acre-feet could be lost. Because the CAP holds the most junior rights to the river, the water would be taken from the canal, leaving it at half-strength. (An acre-foot covers an acre to the depth of 1 foot, or 325,851 gallons. It would meet the needs of a family of five for a year.)

CAP officials believe the seven states can forge an agreement and avoid court, but they acknowledge the risk.

"We all have something at risk when we litigate," said Sid Wilson, the CAP's general manager. "If we could work together on a program of management, we could all be winners for a good long while."

The plan under consideration today would focus on augmenting the river's flow, adding water by seeding clouds, removing non-native vegetation such as salt cedar, adding storage on the lower river and simply managing the water more efficiently.

Wilson said he is confident such an approach could add 1 million acre-feet of water or more per year, easing the pressure on the lower river states.

Pat Mulroy, general manager of the Southern Nevada Water Authority, said what is happening now could be "a lot of saber-rattling," but she said Nevada can't just do nothing.

"It would show a real failure on everyone's part if we end up in court," she said. "If we're pushed, we may not have a choice. Given what our resource picture is, we have no choice but to be dogged."

Colorado created its own legal fund earlier this year and staked out its position that the lower river states, Arizona in particular, have taken more than their share of Colorado River water. Officials there have softened their public stance and have pledged to work on a cooperative plan.

"We believe that we water professionals should be able to do a better job of managing the river than leaving it up to a judge or a court," said Scott Balcomb, Colorado's representative on the Upper Colorado River Commission. "Our thrust right now is to attempt to get some kind of a seven-states agreement in place"

"(Still), I don't blame Arizona for being concerned about the situation that is unfolding," he said.

"My boss was quoted in the Colorado papers indicating that if we needed to, we would have our own legal defense fund ready. Being ready to litigate, if that turns out to be the only option, is only prudent. None of us is gambling on an agreement."

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