

With Doomsday in Mind, California Officials Are Ceding Water to Arizona, Nevada

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Twenty-six million people in California, Nevada and Arizona rely on the Colorado River, but this magnificent source of water that carved a continent is drying up.

Representatives of the three states have been huddling behind closed doors and, for the first time ever, California water officials are offering to give up some of the state's strongest claims to the river – at least temporarily.

The thermometer of the river's health is Lake Mead — the lake formed behind Hoover Dam. The lake is now lower than it's been since it was first filled back in the mid-1930s.

For 16 years, drought has chipped away at the Colorado. If Mead continues to fall, there will not be enough water there to meet all the demands of the Southwestern United States and Mexico.

Most significantly to Southern California's immediate interests, California representatives have offered to forgo part of the state's claims to river water, at least temporarily and under certain conditions. Such voluntary cuts to California's Colorado River access would be unprecedented.

Under current law, California has first dibs on much of the river's water. California's rights to the Colorado are so secure that the Central Arizona Project — a 336-mile series of canals and pipelines that brings river water to 80 percent of Arizona's population— would have to run dry before California has to lose a single drop.

That is the consequence of a deal worked out in the late-1960s. That might be the law, but it's now hard to imagine letting civilization in Arizona wither while California is unscathed.

Water officials involved in the negotiations worry that without a new deal, politicians will eventually decide everyone's collective fates rather than technocrats like themselves with experience managing water.

And so, California representatives have offered to forgo up to 8 percent of the state's Colorado River water, if things get bad enough. The worry is cuts would be worse later if California doesn't play ball with Arizona now.

The San Diego County Water Authority is not involved in the negotiations. Instead, it's on the sidelines and taking a dim view of the talks. The Water Authority calls them a "[dubious closed door process](#) [1]."

For many years, the Water Authority has worked to shore up San Diego's water supply by getting more water from the Colorado River. Cutting California's claim to that water therefore is particularly worrisome. San Diego officials suggest others in California are unnecessarily rushing to give away part of the state's hydrological lifeline.

San Diego's position stands somewhat in contrast to the overall tone of the negotiations, which are said by those involved to be amicable, despite the tension between California and Arizona over the river that defined regional water politics during much of the 20th century.

"Everybody goes to the table with their guns at their sides and says we're willing to talk, but if need be, we're right back it," said Jeffrey Kightlinger, the general manager of the Metropolitan Water District of Southern California, who has been involved in the negotiations. "But, so far, we've found more good reasons than not to say, 'Let's agree.'"

For now, though, the biggest obstacle to a deal may be politics within California itself.



The major goal for now is to keep Lake Mead as high as possible. Water levels at Mead define how California, Arizona and Nevada divvy up the river.

A 2007 agreement among the seven states in the Colorado River basin created a 20-year plan for sharing the pain of falling elevations at Lake Mead.

Eight years of drought drove those states to the table then. The river was experiencing its driest years in a century. That drought has not ended.

Arizona and Nevada said then that they would cut their use of the Colorado River water if the water level at Mead falls below 1,075 feet. California, which holds the senior rights to the river's water, did not agree to make any cuts.

That plan, though, did not really prepare everyone for how quickly Mead could fall.

There's now a chance that the lake could fall below 1,025 feet in the next several years, a level considered [dangerously low](#) ^[2] because the lake would not contain enough water to meet a single year's demand.

And states didn't agree what they would do if that happens.

Instead, they agreed only to meet for another round of talks.

The federal government also has the power to step in. At below 1,025 feet, the U.S. secretary of the interior, who acts a "water master" for the Colorado, could order cuts.

If the lake falls low enough, Hoover Dam wouldn't be able to generate hydroelectricity, another significant concern.



Metropolitan built and maintains the 242-mile Colorado River Aqueduct, which brings water from south of the Hoover Dam into Southern California. Besides the Colorado, Metropolitan also gets water from Northern California. With those two major sources, Metropolitan supplies water to 19 million Southern Californians, including San Diego.

When Metropolitan looks around, it worries about the unknowns.

If states can't work things out among themselves before Mead hits 1,025, who knows what a future secretary orders states to do?

Who knows what a Supreme Court, which hears disputes among states, would do?

Congress could jump into the fray, [as it has in the past](#) ^[3], to decide major issues on the river. One Arizona senator recently said he favors a new law to ensure that Arizona's water does not "[disappear behind a California canal](#)" ^[4]. With six other states in the Colorado River basin, California would be outnumbered 12-2 by other basin states in the U.S. Senate. Who knows what Congress would do?

"We think proactively it makes sense to see if we can protect the system," Kightlinger said. "It's a huge, important part of Southern California's water supply. If there are steps we can do that have some pain here – but a much larger share of cuts to Arizona, much more impact on their side than on ours – if it all works together and allows us to really, hopefully keep the system from getting too far down, that's in everybody's interest."

So, Kightlinger is working on a plan for California to forgo up to 350,000 acre feet of water if Mead keeps falling. An acre foot is roughly the amount of water used by two households in a year. California has senior rights to 4.4 million acre feet of Colorado River water each year, so the voluntary cut amounts to up to 8 percent of the state's share of the river.

Effectively, a deal would mean that California artificially increases the amount of water in Lake Mead

by leaving water there to prop up the elevation of the lake.

A condition of California's participation in such a deal is the chance to get back the lost water in future years, if Lake Mead recovers in the near future, according to several water officials from California involved in the negotiations.

Metropolitan [estimates](#) ^[5] there's a one-in-three chance California would have to give up water and a one-in-four chance it would get that water back.



Arizona and Nevada water officials are also talking about taking deeper cuts sooner than they agreed to in 2007, partially in hopes of keeping Lake Mead high enough to avoid becoming dangerously low and inviting a federal intervention. In return, they want California to agree to share the burden.

(A spokesman for the Southern Nevada Water Authority did not respond to a request for comment. Nevada's share of the Colorado is tiny compared with California or Arizona's.)

The way officials in Arizona see it, their state has judiciously used water while the state grew rapidly: The state uses about the same amount of water to serve 6.7 million people as it used decades ago to serve 1.1 million people.

Now, the state is about to get hammered by a deal made five decades ago.

The deal was the [Colorado River Basin Project Act of 1968](#) ^[6]. Congress agreed to fund construction of the Central Arizona Project, which now delivers up to 1.6 million acre feet of Colorado River water to 80 percent of Arizona's population.

There was one catch: In a drought, the project would have to cut whatever it had to in order to preserve California's entitlement of 4.4 million acre feet of Colorado River water. If that meant the Central Arizona Project ran dry of Colorado River water, so be it; California comes first.

"That was a political thing and machinations in Congress – Arizona agreed, obviously," said Tom Buschatzke, director of the Arizona Department of Water Resources.

So, the Colorado is in drought – more water is being withdrawn than flows into it.

The Central Arizona Project has already begun to draw less water from the Colorado in the past few years. By using less water now, more water stays in Mead, which prevents the lake from falling below the levels that make cuts to Arizona mandatory. The state is choosing voluntary, self-imposed cuts now in an effort to avoid mandatory cuts later.

Chuck Cullom, the manager of Colorado River programs for the Central Arizona Project, said risk-averse water managers would rather make plans for themselves than risk federal intervention.

"You look at the situation from the federal point of view: In a crisis, would the secretary of the interior cut off Arizona's primary water supply to tribes and cities, or would she share the pain with agencies in California, even though they have a superior water right?" Cullom said. "And, so, none of us can speak with confidence about what a future secretary of the interior might do when confronted with those very difficult, painful choices."



Of California's 4.4 million acre feet of senior rights to Colorado River water, the Imperial Irrigation District controls 3.1 million acre feet, 70 percent of the whole state's allocation.

Any multi-state deal involving California would be almost useless without Imperial.

Yet, Imperial has significant reservations about any deal and a few conditions that must be met before it agrees to one.

A key question: How can the district agree to give up water its farmers could use if that means more water for farmers in Arizona?

Tina Shields, the manager in charge of Colorado River supplies for the irrigation district, also looks back at the deal struck in 1968 when the Central Arizona Project was given the green light. Arizona got money for the project, but it agreed to take the hit if the Colorado was in a drought.

“That was the deal Arizona signed up for,” she said. “Now is the time when the part of the deal that isn’t so palatable to Arizona is sort of rearing its head.”

She questions whether Arizona is even facing a crisis. While about 40 percent of Arizona’s water comes from the Colorado, the majority is still from other sources. Arizona doesn’t use all of its Colorado River water each year; it sets aside some for storage.

Arizona officials talk about having [3.4 million acre feet](#) ^[7] of water in storage and [guaranteeing 100 years of water](#) ^[8]. In one presentation Arizona officials gave in April, a slide pointedly says, “[Arizona is NOT in a water crisis.](#)” ^[9]”

So, Shields asks, why is Arizona leaning on California to make cuts? Why doesn’t it use that stored water now? Why is California trying to avoid a crisis that at times Arizona suggests doesn’t exist?

“They have a really big reservoir and they have a lot of water in storage, but it really doesn’t align with the comments that there’s this crisis and it needs to be addressed right now,” she said.

Besides questioning Arizona’s motives, Imperial wants something from California leaders before it cuts a new deal on the Colorado: a commitment to fix the Salton Sea.

The accidental sea, formed by a flood of the Colorado over a century ago, [is drying up](#) ^[10]. Imperial officials warn that a dry lake bed will emit noxious dust. With less water coming from the Colorado, there would be even less water to tamp down the dust.

“We certainly can’t do things that benefit other communities and cause health hazards for our children and our residents,” Shields said.

Some plans to solve the Salton Sea problem cost billions. Imperial isn’t looking for all that money right now, but it does want the state to commit to doing something before it agrees to give up access to Colorado River water.

Metropolitan is seeking some similar certainty about the future. The Delta Fix involves building a pair of tunnels under the Sacramento-San Joaquin River Delta to more reliably deliver water to Southern California from Northern California.

“If there is no path forward on a Delta Fix, I would see this being a very difficult thing for my board to consider,” Kightlinger said during a recent Metropolitan board meeting.

The tradeoff for Metropolitan is simple: A less reliable supply from the Colorado River demands a more reliable supply from the rivers of Northern California. The Delta Fix, which Gov. Jerry Brown [supports](#) ^[11], would cost \$15 billion. Metropolitan would also be looking into other programs to increase its access to other water, like buying water from farmers who fallow their land or infrastructure to recycle water.



The San Diego County Water Authority has been left out of the negotiations. Not only does that make it nervous, because San Diego depends heavily on the Colorado River, but San Diego officials worry other California water agencies are preparing to give away the store.

It would be fairly easy for the Water Authority to attend some of the meetings, should it ever be invited: Some of the Colorado River talks have been in San Diego, because of its convenience for representatives within California and across the Southwest.

But the Water Authority has not been invited.

Bart Fisher has been involved in the multi-state negotiations on behalf of both the Palo Verde Irrigation District, where he is board chairman, and the Colorado River Board of California, which he also chairs.

Fisher said he welcomed giving the Water Authority a seat at the table – but he was the only one.

“I personally would much rather see San Diego involved, but this issue of negativity – it seems like anything that is a positive to Metropolitan, San Diego is not willing to [do],” Fisher said.

The official reason that the Water Authority is not invited to the Colorado River negotiations is because San Diego does not have a federal contract to receive water from the Colorado River. Even though about 64 percent of the county’s water comes from Colorado, that water comes to San Diego from Metropolitan and Imperial, which both have federal contracts. The other two California water agencies involved in the talks – Palo Verde and the Coachella Valley Water District– are also considered federal contractors.

Then there’s the reason Fisher alluded to, the issue of “negativity.” The Water Authority has gained a reputation among some in the water world for being impudent and litigious, mainly because of [its ongoing disputes with Metropolitan](#) ^[12].

San Diego relies on Metropolitan for most of its water, is Metropolitan’s biggest customer and has seats on Metropolitan’s board. Yet, the Water Authority’s representatives to the Metropolitan Board of Directors did not support about a fifth of the 140 or so actions the board considered last year.

Baggage from those fights may be why others are not eager to have the Water Authority involved in talks right now.

Whatever the reason, the Water Authority believes it should be involved in the talks. And its officials point out that deals negotiated behind closed doors are liable to blow up.

“In the history of the river – from 1928, when people thought they could go off and talk in secret and make deals – almost every time, the secret deal gets revealed and it gets blown up,” said Mark Watton, a Water Authority board member.

The exact stakes for San Diego remain to be seen. The term sheet that states worked on during their negotiations is still not public, though most of the points from it have been released in various forms by agencies in California and Arizona.

San Diego’s concern, though, is deep: As part of its efforts to supply the region with water, the Water Authority paid to get [280,000 acre feet](#) ^[13] of Imperial’s Colorado River water. Now, the Water Authority fears any Colorado River deal will affect how much of that water San Diego receives.

Imperial said San Diego shouldn’t worry.

“Our perspective is that we have existing agreements in place and they layer on top of one another,” Shields said, meaning that its commitment to San Diego would stay in place.

If a deal is possible, officials involved in the talks hope to have something together by the end of the year.

The Water Authority questions what California can possibly gain by making a new deal now, when the deal struck in 2007 does not contemplate any cuts to California’s Colorado River water supplies.

Metropolitan, Imperial and Palo Verde are unlikely to volunteer to make cuts unless they have a chance to get that water back in later years. (Coachella declined to comment.)

In return for agreeing to help out Arizona and Lake Mead by leaving some water in the lake, Metropolitan hopes to be able to retrieve that water later, as well as water Metropolitan already intentionally stored in the lake. Currently, if the lake drops low enough, Metropolitan would not be able to get back the water it is already storing there.

Imperial wants a similar deal: It wants to be able to use Lake Mead like a bank account. Currently, if Imperial doesn’t use all the Colorado River water it is entitled to in any given year, it loses water. As part of any new deal, it wants to be able to save water one year and use that much extra water in another.

The Water Authority is not impressed. In a [June 22 staff memo](#) ^[1], the Water Authority wondered

why California “would now voluntarily surrender such valuable water, particularly when other states expressly agreed to take the first reductions in a declared shortage in return for concessions previously granted by California.”

In other words: Arizona said years ago that it would give up Colorado River water in a drought. Now, the Water Authority suggests, it’s time to hold Arizona to it.

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URLs in this post:

[1] dubious closed door process: <https://www.documentcloud.org/documents/2896343-2016-06-23-ColoRiver-Update.html>

[2] dangerously low: http://www.crb.ca.gov/board_meetings/2016/CRB%20Minutes%205.11.16%20%20final_.pdf

[3] as it has in the past: <http://www.usbr.gov/lc/region/g1000/lawofrvr.html>

[4] disappear behind a California canal: http://tucson.com/news/science/environment/arizona-wants-legal-assurances-california-won-t-take-its-stored/article_e7fd790b-208d-5c8f-a1cb-bb2c9755c429.html

[5] estimates: <https://www.documentcloud.org/documents/2896340-6-13-Colorado.html#document/p23/a304279>

[6] Colorado River Basin Project Act of 1968: <https://library.cqpress.com/cqalmanac/document.php?id=cqal68-1284109>

[7] 3.4 million acre feet: <http://www.azwaterbank.gov/Documents/Draft2015AnnualReport6-8-16.pdf>

[8] guaranteeing 100 years of water: <http://www.azwater.gov/azdwr/WaterManagement/AAWS/documents/AWS101Presentation9-13-2011.pdf>

[9] Arizona is NOT in a water crisis.: <https://www.documentcloud.org/documents/2896357-Workshop-Overview-ADWR.html#document/p6/a304280>

[10] is drying up: <http://www.newyorker.com/magazine/2015/05/04/the-dying-sea>

[11] supports: <http://www.latimes.com/politics/la-pol-sac-jerry-brown-water-plan-delta-tunnels-20160114-story.html>

[12] its ongoing disputes with Metropolitan: <http://www.voiceofsandiego.org/topics/government/the-year-in-san-diego-water-wars/>

[13] 280,000 acre feet: <http://www.sdcwa.org/colorado-river-supplies-management>