

MAY 2021

Field Notes

NEWS FROM WESTERN RESOURCE ADVOCATES

WRA Prepares for a Rare Opportunity to Protect the Colorado River

WRA's policy experts are preparing for a moment that could fundamentally change the way we protect the Colorado River. **Pg. 2**

Advocating for Innovative Water Use in the Arid West

Learn how WRA is crafting groundbreaking solutions at the nexus of energy and water to solve our region's water crisis. **Pg. 5**

A FLEXIBLE WATER FUTURE

The pace of change in the water world is often described as glacial. Water laws and regulations in the West are outdated, developed over the past 150 years or so, when supply typically kept pace with demand and the primary aim was to divert water from rivers. Relationships and agreements among water users, institutionalized over decades to favor consumption over conservation, are hard to modify to protect threatened and endangered rivers.

It might seem strange that laws that govern our water use in the arid West can discourage water conservation, but it is true. While those specific laws and policies might have made sense when they were created, they are not sustainable in the face of growing populations and climate change, which are putting further stress on our region's rivers and streams. Arizona has taken a first step toward finding a new balance.

(continued on page 9)



A HISTORIC MOMENT FOR THE COLORADO RIVER

THE RIGHT LEADER FOR THE MOMENT



When communities come together to take on the challenge of managing the Colorado River for a future with less water, they'll do so under new federal leadership. The Department of the Interior—led by recently confirmed Secretary Deb Haaland—will oversee those crucial negotiations. Haaland is the first Native American to lead the Department of the Interior, which has major responsibilities over the Colorado River, Western public lands, and tribal affairs throughout the region. The Interior Department plays an important role throughout the Basin but especially in the Lower Basin, where the law dictates that the Secretary of the Interior is the “water master,” in charge of delivering water to those states.

Although new in her role, Secretary Haaland understands and has lived with the issues on and off the Colorado River. She is a self-described 35th-generation New Mexican, a member of the Laguna Pueblo, and a former Congresswoman for New Mexico's 1st District. She is intimately familiar with the challenges facing the Colorado River and our communities. With all that is at stake in the coming negotiations, Secretary Haaland is the right leader in this moment to have at the helm of the Department of the Interior.

The Colorado River is an essential water source for more than 40 million people, 5.5 million acres of agriculture, and the vibrant wildlife along its course through the Southwest.

When you turn on your tap at home, it's hard to imagine the thousands of important—and at times contentious—decisions made about that water before it gets to your glass. But from the snowcapped Rocky Mountains down through the Arizona desert, every drop of water in the Colorado River is subject to a labyrinth of legal considerations. Water providers, municipalities, states, tribes, and other entities collaborate, negotiate, and litigate to safeguard their share of the river. The river is so coveted and overused that it runs dry before it reaches its historic delta in the Gulf of California.

While state water laws date back to the mid-19th century, the interstate management of the Colorado River hit a major milestone 100 years ago, with the 1922 Colorado River Compact, which divided up the river between 7 southwestern states and provided the framework for how the river is governed to this day.

However, the realities of the river have evolved since then. In 2007, the Colorado River Basin states negotiated a set of guidelines to update how we manage this vital resource. Those Interim Guidelines modernized the way the river is managed and how states cooperate on the hardest-working river in the West. For the past 14 years, the Interim Guidelines have coordinated water releases from Lake Powell and Lake Mead to provide more certainty for water users and avoid mandatory curtailments and conflicts among Upper and Lower Basin states. But the guidelines lacked important provisions speaking to river health.

The guidelines are set to expire in 2026, providing a rare and historic opportunity to protect the Colorado River for future generations. Cities, communities, industries, and agriculture interests, among others, will be vying to protect their share of the river's water. WRA and our partners will work to ensure the river and its ecosystems are protected for the long-term health of our region and for future generations.

The renegotiations are coming as the impacts of climate change are increasingly being felt throughout the Basin and as scientists say that hotter and drier is our new normal. It is a pivotal moment for Upper and Lower Basin states alike to start planning for a future with less water in the Colorado River.

Increased temperatures and the lasting impacts of drought mean that the near average levels of snowpack in the past few years have

resulted in below average flows in the Colorado River. Indeed, the Lower Basin is likely to face its first ever “tier-one” shortage next year. That would trigger cutbacks on water use in Arizona, Nevada, and Mexico, primarily to agricultural producers. It would also force municipal water managers and communities to focus even more on conservation.

It's clear the challenges we face today, and those looming tomorrow, call for new and more-tailored solutions. Western Resource Advocates will advocate for solutions that balance the health of the river with the wellbeing of the millions of people who depend on its water. With decades of policy experience, we have the expertise to help create customized solutions that protect and restore the health of the Colorado River while providing for the livelihoods of communities, farmers, ranchers, and others throughout our region.

As communities across the basin gear up for negotiations, water security will be on everyone's mind. The negotiations will offer a chance to address major inequities in Western water management. Discussions leading up to the first Interim Guidelines lacked meaningful input from the 29 indigenous tribes of the Colorado River Basin. On paper, tribes hold 20 percent of the water rights throughout the Basin. However, they experience major inequities in water infrastructure and development that leave many native communities without consistent access to clean water. As water managers work across the West to set the course for managing the river in a drier future, we need to work to ensure an inclusive process for all communities and neighbors that count on Colorado River water.

WRA is convinced an equitable and sustainable agreement can be reached by advocating for water-conscious and cost-effective solutions. That will require working with decision makers, thought leaders, water managers, state legislators, and communities to encourage water-smart policies and shape the way the Interim Guidelines are updated.

WRA is also cooperating with our partners to ensure that stakeholders who depend on the Colorado River have a seat at the table for those pivotal talks. Working together with experts from indigenous and traditionally underrepresented communities, we are connecting people across the Basin for important conversations, so we end up with an agreement that works for everyone. We plan to find a balance that allows communities to make the most of the water they have and be more resilient for the drier future ahead.



GRAND CANYON

The Grand Canyon is best known for its world-renowned geology, immense landscapes, and roaring rapids on the Colorado River. But the 277-mile-long stretch of winding river through the Grand Canyon also provides important riparian habitat for aquatic wildlife and native fish species. Located between two of the largest dams on the Colorado River, the health of the riparian habitat in the Grand Canyon is easily impacted by even the slightest changes in climate and water management practices. The negotiations will be an opportunity to restore crucial habitat in the canyon.



UPPER COLORADO RIVER ENDANGERED FISH

WRA has worked for years to protect river flows and other habitat that supports the four endangered fish species native to the Colorado River through our work with the Upper Colorado River Endangered Fish Recovery Program. By ensuring there is enough water in the river at key locations during crucial times, we can support the survival of those species for future generations. WRA will continue to advocate for their protection in the upcoming negotiations.

ENSURING MY LOVE FOR THE WEST LASTS BEYOND A LIFETIME WITH A PLANNED GIFT TO WRA



AJ GRANT

Anyone can make a planned gift, of any amount, at any age. Planned gifts don't cost anything today or during your lifetime, and in most cases, you can make changes to your planned gift. Planning secures a future for yourself, the ones you love, and the causes you care about.

"When I think of making sure the West's legacy and its unique treasures are protected now and for future generations, at the top of my list is Western Resource Advocates (WRA). WRA's team of economists, scientists, and legal and policy experts has consistently demonstrated over the past 30 years that they have the vision, know-how, strategic chops, and perseverance to soundly guide the future of the West. The best part is all I need to do is put my intention in my Will and alert WRA to expect a gift someday in the future. For now, I can rest knowing the West is in good hands long after I am gone."

-AJ GRANT, SECRETARY, WESTERN RESOURCE ADVOCATES BOARD OF DIRECTORS.

Read AJ's full story here: <https://westernresourceadvocates.org/blog/my-planned-gift>

There are many ways to make a planned gift! Some of the easiest ways are through your estate plans or by designating WRA as a beneficiary on your retirement account or life insurance plan. To learn more about making a planned gift to WRA, visit <https://westernresourceadvocates.org/giving/planned-giving/>. Better yet, contact Theresa Bushman at 720-763-3727 or theresa.bushman@westernresources.org. Thank you!

STAFF SPOTLIGHT

Protecting Watersheds Through Innovative Policies

Outstanding National Resource Waters designations are a powerful tool for water and land conservation in the West. The federal Clean Water Act gives states the authority to designate streams, lakes, and wetlands as Outstanding Waters when the state believes those waters deserve special protection.

WRA is using these designations in a way that goes beyond protecting critical waterways. We talked to Senior Western Lands Policy Analyst Rachael Hamby about the innovative way WRA uses these designations to protect Western lands.

First, would you tell us about how Outstanding Waters designations can help protect Western lands and waters?

Once an Outstanding Waters designation is made, future activities must protect, and not lower, the water quality from what it was at the time of designation. In addition to protecting the water itself, the designation can influence what happens on land next to and upstream of the Outstanding Water.

We can help protect the entire watershed from new or expanded land uses—such as oil and gas development, mining, road building, and other activities—that could pollute the designated Outstanding Water.

How do you utilize Outstanding Waters designations in your work to protect lands?

WRA leverages our experience and expertise to share lessons learned across states. We help partners develop and deploy this innovative strategy more widely to achieve stronger protections for lands and waters across the West.

For example, we work in coalitions to identify and support designations that would have the greatest benefit. We also work to strengthen state-level policies. The goal is to make the designation process accessible to the public and ensure that the designation itself offers the strongest possible protection for waters, lands, and the species that depend on them.

Looking forward, what can you tell us about the potential for new Outstanding Waters in our region?

We're always looking for opportunities to use this important tool to protect not just water quality but also lands for wildlife and for future generations to enjoy.

In Colorado, WRA is part of a coalition that is putting together a proposal for new Outstanding Waters designations in the San Juan and Gunnison basins. In New Mexico, we are part of a campaign to secure an Outstanding Waters designation for the headwaters of the Pecos River, which is being threatened by a proposed mine. And in Nevada, we are working closely with the state and our partners to clarify and strengthen the designation process so that Nevadans can participate more easily.

Learn more about the great work Rachael Hamby and our Western Lands team are doing to protect Outstanding Waters: <https://westernresourceadvocates.org/protecting-outstanding-waters-in-the-west/>

The Pecos River provides important habitat for Rio Grande cutthroat trout and is a popular recreation destination that supports the tourism economy in the town of Pecos, New Mexico. An Outstanding Waters designation would help protect not only the river but also the Sante Fe National Forest and the Pecos Wilderness from potential toxic impacts of hard rock mining.



NEWS FROM THE FIELD

REPOWERING WATER RIGHTS TO BENEFIT THE WEST

The West is experiencing the devastating impacts of a decades-long megadrought fueled by climate change. At the same time, our water laws have never adequately addressed all the needs of the region's rivers. Part of the reason: We are working within an entrenched system of water rights that leaves rivers overdrawn, overtaxed, and—in some places—on the brink of bankruptcy. One way of helping people find balance with nature is to reshape how we use our scarce water resources. Cue coal-fired power plant retirements in Colorado.

Coal plants require large quantities of water to operate, mainly to cool the steam that generates power, and the water used to cool those plants soon will become available for other uses. Thanks in large part to WRA's 30 years of leadership in decarbonizing the power sector, Colorado is now on track to retire all but one of its coal-fired power plants by 2030. Colorado's state water plan predicts that 94,000 acre-feet of water (the amount used by a city of 500,000 each year) will be unlocked because of coal plant retirements. That presents Colorado and our region with an opportunity unlikely to occur again in our lifetime: changing the use of those water rights to satisfy multiple needs, including greater flow in rivers to support recreation, ecosystems, and habitat for fish and wildlife.

We need to be smarter about when, where, and how we use water across the West to better protect our region's increasingly fragile rivers and streams.

WRA is working with local stakeholders to reallocate coal plants' water rights in new, innovative ways that would restore flows in stressed rivers. The new water can support fish habitat and benefit communities whose recreational economies depend on healthy stream flows.

WRA has a decades-long history of advocating before the Colorado Public Utilities Commission (PUC), which oversees the utilities that operate coal plants, as well as before the Office of the State Engineer and the Colorado Water Conservation Board, which oversee water rights and water use in the state. Last year, WRA helped secure the Colorado PUC's confirmation that coal plant water rights are a public utility asset and that any transfer of those rights must be in the public interest. That establishes a new path forward for WRA to shape proposed water-right transfers and ensure that water rights from retiring power plants are managed for the greatest benefit to rivers and the people of Colorado.

WRA is perfectly poised to lead in this new cutting-edge and innovative space, where retiring coal plants before the PUC intersects with managing water rights before traditional water forums. It is a highly specialized space that requires WRA's technical and legal expertise and is dependent on collaboration across multiple sectors. The benefits of navigating true through that space can be leveraged for long-lasting generational impact throughout the West.

Aerial view of the Public Service Co. Valmont Plant across Hillcrest Reservoir. The photo is believed to be circa 1925-1937. Valmont Power Station closed in January 2019. Source: Boulder Historical Society/Museum of Boulder.





WRA is proud to partner with photographers to showcase their work and the West's amazing landscapes. Zak Coker of New Mexico shared this photo of the Gila River, which is partially protected as an Outstanding Water. He writes, "Here in New Mexico, rivers are the lifeblood of our region. Ancient peoples, agriculture and communities all rely heavily on the water sources throughout the state. I'm so fortunate to spend time in many of our most treasured watersheds, one of my favorites and most beautiful; the Gila River." See more at zakcoker.com (@zcokes).



A Flexible Water Future

**Unsustainable “Use It or Lose It”
Law Gets an Upgrade**

ILLUSTRATION BY ALEX NABAUM

“USE IT OR LOSE IT” is the premise of laws that say if you don’t use all or some of your water rights for a period of time, you can lose them so someone else can put them to a beneficial use, such as irrigating crops. Far from making every drop count, those water laws disincentivize wise water use and hamper innovation that would help stretch limited water supplies and protect rivers.

Under “use it or lose it” law, a surface water right may, in some instances, be forfeited after five years of nonuse. That led to uncertainty and a perceived risk for farmers and ranchers wanting to use less water while still holding on to their valuable water rights. The limited flexibility discouraged water users from mod-

as examples for other states in the Colorado River Basin. For example, Colorado and New Mexico have passed revisions to their “use it or lose it” laws that address fallowing irrigated lands. Arizona’s law expands protection to a much wider range of conservation activities beyond fallowing. It includes improving irrigation efficiencies, crop shifting, and infrastructure improvements such as lining canals and installing automatic head gates.

This model of encouraging and rewarding conservation needs to be expanded across the West and the Colorado River Basin as water demand outstrips supply. Climate change will make our region hotter and drier, so we need to seize opportunities like this to make water man-

Arizona’s revised law can help keep more water in local rivers and streams, benefiting people, watersheds, and wildlife...

ernizing irrigation systems and engaging in conservation practices that keep more water in rivers.

The new law, HB21-2056, was signed by Arizona Governor Doug Ducey in February 2021. It allows water users to voluntarily divert less river water onto their property through efficiency and conservation measures for up to 10 years without forfeiting or abandoning their water rights. Water users must file a water conservation plan with the Arizona Department of Water Resources. By allowing water users to divert less water onto individual properties, Arizona’s revised law can help keep more water in local rivers and streams, benefiting people, watersheds, and wildlife, while also improving water security in one of the driest states in the country.

Conserving water and supporting healthy rivers should be rewarded, not punished. While Arizona was slower than other Western states to improve flexibility in water management, this measure adds to a growing list of conservation methods

agement more flexible to support our increasingly stressed rivers.

WRA, along with our partners, played a critical role in shaping Arizona’s new anti-forfeiture measure. We spent several years working with stakeholders, legislators, and others to craft the forward-thinking law, and our approach paid off: The bill received strong bipartisan support and a rare unanimous vote in the Arizona Senate. But our work is far from done, and we need to move faster to address growing water challenges that threaten the health of rivers and streams in the West before time runs out.

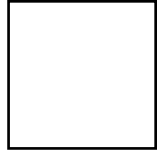
Commonsense water solutions can unite us and protect the rivers that embody the West. State-level leadership on conservation remains essential, and we cannot slow down. As a trusted thought leader, WRA is making progress in state legislatures and with state agencies across our region to protect our treasured rivers, streams, and watersheds. That is a positive change worth celebrating.

Opposite page: A small stream in rural Arizona, where water users such as farmers and ranchers could leverage the new law for the benefit of the river.





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From Your Field

Winter evening at the Rocky Mountain Arsenal National Wildlife Refuge, by Dave Burchette, spouse of WRA board member Loretta Pineda, of Denver. We'd love to keep sharing photos by our community of supporters! Please contact brendan.witt@westernresources.org for more information.