

**Testimony of Thomas Buschatzke  
Director  
Arizona Department of Water Resources  
Before the  
Committee on Energy and Natural Resources  
Subcommittee on Water and Power  
United States Senate  
On  
The Colorado River Drought Contingency Plan  
March 27, 2019**

**Chairman McSally, Ranking Member Cortez Masto and members of the Subcommittee:**

**I. Introduction**

My name is Thomas Buschatzke and I am the Director of the Arizona Department of Water Resources. Thank you for providing me an opportunity to present testimony on behalf of the State of Arizona on the Lower Basin Drought Contingency Plan, or LBDCP. The LBDCP is a plan negotiated by representatives of the states of Arizona, California and Nevada, water agencies within those states and the United States Bureau of Reclamation to address the ongoing drought in the Lower Colorado River Basin that began nearly two decades ago and that has no end in sight.

The Upper Division States of Colorado, New Mexico, Utah and Wyoming, along with the Bureau of Reclamation, have negotiated a drought contingency plan for the Upper Colorado River Basin. The two DCPs work together to benefit the Colorado River system. The State of Arizona (“State”) supports the implementation of both plans.

The DCPs are the latest examples of the Seven Basin States working together with the Bureau of Reclamation to achieve agreed-upon solutions to issues facing the states regarding the Colorado River. The Republic of Mexico, which has a right to receive water from the Colorado River under the Mexican Water Treaty of 1944 with the United States, is also a key participant in the management of the Colorado River. Mexico has agreed to a Binational Water Scarcity Contingency Plan pursuant to Minute 323 signed in September 2017. Working together, we have developed a sound plan for protecting the water supply in both reservoirs in the face of historic drought conditions and we have done so in a manner that continues to protect and respect the water rights of those millions of people who rely on the Colorado River.

The Seven Basin States have drafted a series of agreements to implement the DCPs. These agreements are attached to a letter sent by the Seven Basin States to the members of Congress on March 19, 2019. The letter also included proposed federal legislation necessary for the plans to become effective. We request that Congress take action immediately to pass that legislation, which directs the Secretary of the Interior to execute the agreements and carry out their provisions after they have been executed by the non-federal parties to the agreements. In addition to providing you with testimony on the DCPs, I am here today to request your support in passing that legislation as quickly as possible.

## **II. Importance of the River to the Lower Basin**

The Colorado River is a critical source of water for 40 million people and businesses that reside in the River's Upper and Lower Basins. In addition to providing water for these municipal uses, the River supplies water for the irrigation of nearly 5.5 million acres of land in the Upper and Lower Basins and produces power for millions of people. In the United States portion of the Lower Basin, the River supplies water to

nearly 25 million people and generates electrical power for approximately 8 million people.

Last year's runoff into the Colorado River was the second lowest since 2000 but it is just one year in nearly two decades of drought in the watershed. The Bureau of Reclamation is predicting that Lakes Powell and Mead, the two largest man-made reservoirs in the United States, could reach critically low levels as early as 2021 or 2022. Although this winter's snowpack is well above normal, one thing we have all learned is that one above-normal year will not erase over 19 years of drought on the system.

In Arizona, the Colorado River supplies nearly 40 percent of the State's water use. An initial shortage on the Colorado River will be felt first by critical underground water storage and replenishment programs, then our agricultural communities within the service area of the Central Arizona Project ("CAP"), and finally by our municipalities and tribal water users within the CAP service area. The CAP serves three of the State's 15 counties, contributing to the water supplies of approximately 80 percent of the State's population, including the major metropolitan areas of Phoenix and Tucson. In addition, nine Native American communities have rights to water through the CAP, and CAP water is delivered to the agricultural communities in central and southern Arizona.

For over a century, Arizonans have worked hard to provide secure water supplies in an arid state prone to drought. Initially, development of Arizona's Colorado River water supplies occurred along the River. The authorization and construction of the CAP constituted a significant additional step for Arizona to put its Colorado River entitlement to beneficial use.

Since the initial deliveries of Colorado River water through the CAP in May 1985, the State's water users within the CAP service area have

reduced their dependency on finite groundwater supplies. At the same time, they have increased reliance on the State's renewable surface water supplies including the Colorado River. Today, nearly 40 percent of the State's annual water demand is met with Colorado River water supplies. It is difficult to overstate the importance of this water supply to the State's economy, environment, and its quality of life.

### **III. The DCPs**

In 2013, representatives of the Seven Basin States informed the Secretary of the Interior that they would begin discussing ways to address the ongoing drought in the Colorado River Basin. The States' representatives also asked the Bureau of Reclamation to assist in those efforts. Initial discussions focused on a single basin-wide plan.

In 2015, the three Lower Basin States began discussions focused on developing a plan for the Lower Basin. The goal was to develop a plan to reduce the threat of Lake Mead's elevation falling to critically low levels that would result in significant reductions in deliveries of Colorado River supplies to water users and potentially impact hydro-power generation in the Lower Basin States.

At the same time, the Upper Basin States embarked on their own drought contingency plan. It was anticipated that the two plans would ultimately converge. These plans were intended to overlay the 2007 Guidelines and last for the duration of the Guidelines, which are in effect through 2026.

The LBDCP is the product of these lengthy negotiations among the Lower Basin States. Under the terms of the LBDCP, the Lower Basin States will take reductions in water deliveries or make contributions to Lake Mead at various elevation levels through 2026. These reductions and contributions will create additional water in Lake Mead, which in

turn, lowers the risk of the reservoir reaching critically low elevations. Key elements of the LBDCP create additional incentives, while at the same time lessening disincentives inherent in the 2007 Guidelines, for the storage and delivery of Intentionally Created Surplus (ICS).

The DCPs recognize that the 2007 Guidelines are covered by existing environmental compliance under the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The DCPs were expressly designed to fall within the parameters of that existing environmental compliance.

The appropriate parties to the DCPs, including me on behalf of the State of Arizona, will sign the agreements attached to the March 19, 2019 Seven Basin States' letter to implement the DCPs. Upon execution of the LBDCP, the Republic of Mexico will also contribute additional water for storage in Lake Mead, in parity and alignment with the United States parties, pursuant to the Minute 323 Binational Water Scarcity Contingency Plan agreed to by Mexico and the United States.

Understanding the significance of the Colorado River supplies and the impacts of the LBDCP to Arizona's communities and economy, the State's water community, including Central Arizona Project, Salt River Project, tribes, irrigation districts, municipalities, industrial water users, environmental organizations, and with direct participation of Arizona's legislative leaders, worked diligently to develop a series of intrastate agreements, known as the Arizona Implementation Plan. Those agreements are essential to achieving the reductions in Arizona's Colorado River demands required by the LBDCP.

Following extensive debate in public meetings, irrigation district board rooms, the press and at the State legislature, on January 31, 2019, the Legislature enacted legislation in support of the intrastate agreements and a statutorily required resolution authorizing me to sign

the LBDCP after the federal legislation is passed. On the same day, Governor Doug Ducey signed the legislation and the resolution, making it effective immediately.

#### **IV. Moving Forward with the DCPs**

The agreements to implement the DCPs will be signed by the parties upon the passage of the federal legislation and will remain in effect until December 31, 2026, which is when the 2007 Guidelines expire.

The DCPs are a significant incremental step towards the sustainability of the Colorado River system. They build on prior actions that incrementally improve the management of the River.

The Seven Basin States recognize that the DCPs are not a permanent long-term solution. We recognize that more must be done by the states to prepare for a drier future. The State of Arizona is committed to begin working on the renegotiation of the 2007 Guidelines soon after the DCPs become effective, and I believe that the other six Basin States share that commitment.

#### **V. Need for Prompt Passage of Federal Legislation**

With the adoption of the 2007 Guidelines, the Seven Basin States first agreed to criteria enumerating shortages in the Lower Basin and coordinating the operations of Lakes Powell and Mead, to address the risk of these reservoirs falling to critically low elevations.

The operating experience gained from the 2007 Guidelines, as well as emerging scientific information regarding a drier future in the Colorado River Basin, has caused the states and the Bureau of Reclamation to seek more flexible water management programs and

greater required reductions in use from, or contributions of water to, Lake Mead through the DCPs.

The immediate implementation of the DCPs provides immediate benefits to the Colorado River system. Delaying the implementation of the DCPs greatly reduces the sustainability of the Colorado River system. Federal legislation is needed to allow the immediate implementation of the DCPs, which will reduce the probability that Lakes Powell and Mead will decline to critically low elevations. The Seven Basin States have provided language to members of Congress that we believe is appropriate for the federal legislation. It is our hope that federal legislation can be finalized as soon as possible, allowing the DCP agreements to be executed as written and implemented in 2019.

Given the urgent need for action, I am asking your support to adopt federal legislation, so that the agreements can be executed and implemented.

## **VI. Conclusion**

I urge the adoption of the federal legislation that was submitted as an attachment to the March 19 Letter to Congress from the Seven Basin States.

Thank you for the opportunity to provide this testimony to the subcommittee.