



**EXECUTIVE DIRECTOR'S REPORT TO THE  
COLORADO RIVER BOARD OF CALIFORNIA**

September 13, 2023

**COLORADO RIVER BASIN WATER SUPPLY CONDITIONS REPORT**

As of September 11<sup>th</sup>, the surface water elevation of Lake Powell was 3,573.75 feet with nearly 8.80 million-acre feet (MAF) of storage, or 38% of capacity. The surface water elevation of Lake Mead was 1,066.20 feet with 8.90 MAF of storage, or 34% of capacity. As of September 10<sup>th</sup>, the total System storage was 25.58 MAF, or 44% of capacity, which is about 5.82 MAF more than the total System storage at this time last year.

As of September 6<sup>th</sup>, storage in the Upper Basin reservoirs, excluding Lake Powell, included the following volumes: 91% of capacity at Fontenelle Reservoir in Wyoming; 90% of capacity at Flaming Gorge Reservoir in Wyoming and Utah; 95% of capacity at Morrow Point and 83% of capacity at Blue Mesa Reservoir in Colorado; and 72% of capacity at Navajo Reservoir in New Mexico.

As of September 1<sup>st</sup>, the August observed inflow into Lake Powell was 0.31 MAF (82% of normal) and the September inflow forecast is 0.40 MAF (116% of normal). The forecasted unregulated inflow into Lake Powell for Water Year (WY) 2023 is 13.60 MAF (142% of normal). April through July 2023 forecasted unregulated inflow into Lake Powell is 10.62MAF (166% of normal).

2024 Colorado River Reservoir System Annual Operation Plan- Second Consultation

On September 6<sup>th</sup>, Reclamation hosted the second consultation meeting for the development of the 2024 Annual Operation Plan (AOP) for the Colorado River System via webinar to provide an overview of Upper and Lower Basin hydrology and operations as well as review and accept comments for the second Draft AOP. Section 602(b) of the 1968 Colorado River Basin Project Act (P.L. 90-537) requires that the Secretary of the Department of the Interior prepare a report documenting the actual operations for the previous water year and projected operations for the upcoming water year. Based upon the conjunctive reservoir operating criteria established within the 2007 Interim Guidelines, the August 24-Month Study Report projections for January 1<sup>st</sup> elevations in the following year are utilized in determining the operational tiers for the coordinated operations of Lakes Powell and Mead.

Reclamation reported on the projected operations of Lake Powell for Water Year-2024 (WY-2024) based on August 2023 24-Month Modeling. Based on the August 24-Month Study projections, the most probable end of Calendar Year 2023 (CY-2023) Lake Powell elevation is 3,573.68 feet. Based on this projection, Lake Powell will operate in the Mid-Elevation Release Tier in WY-2024. Under this tier, Lake Powell will release 7.48 MAF from Glen Canyon Dam.

The August 24-Month Study projects that Lake Mead's January 1, 2024, elevation to be 1,065.27 feet, which is about 10 feet below the Lower Basin shortage determination trigger of 1,075 feet. Based on this projection, Lake Mead will operate in a Level 1 Shortage Condition. Consistent with the 2007 Interim Guidelines (Guidelines) and the Lower Basin Drought Contingency Plan (DCP) Agreement, Arizona and Nevada will implement 533 KAF in water savings in CY-2024. California is not required to implement water savings actions under the Guidelines or DCP in 2024. Mexico will implement 80 KAF of water savings under Minute No. 323 Delivery Reductions and the Binational Water Scarcity Contingency Plan. The August 24-Month Study also reflects executed system conservation agreements.

The current draft of the proposed 2024 AOP can be viewed online at: [https://www.usbr.gov/lc/region/g4000/AOP2024/AOP24\\_draft.pdf](https://www.usbr.gov/lc/region/g4000/AOP2024/AOP24_draft.pdf). The third AOP consultation meeting is scheduled for Wednesday, October 25, 2023, from 1:00 pm to 4:00 pm, Pacific Daylight Time, via webinar.

## **COLORADO RIVER BASIN PROGRAM UPDATES**

### **Seven Basin States Updates—Scoping Comments for Post-2026 Operational Guidelines & Strategies for Lake Powell and Lake Mead**

On June 16, 2023, Reclamation published a "Notice of Intent to Prepare an Environmental Impact Statement and Notice to Solicit Comments and Hold Public Scoping Meetings on the Development of Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead" (88 FR No. 116, p. 39455, June 16, 2023). Reclamation requested stakeholders and interested parties to provide comments regarding the scope of specific operational guidelines, strategies, and address other relevant issues. Comments were to be provided to Reclamation by August 15, 2023.

Reclamation received more than 300 unique comment submissions from the public, basin Tribes, basin states, federal agencies, non-governmental organizations, and other stakeholders.

Reclamation also received more than 21,000 form letter submissions and 1,200 form letter submissions with unique content. Most of these comment letters were recently posted on Reclamation's Post-2026 Scoping webpage and are available for review or download at <https://www.usbr.gov/ColoradoRiverBasin/post2026/scoping/summary-input.html>.

The seven Basin States provided a short scoping comment response letter. The three Lower Basin States provided a more substantive joint comment response letter. Copies of the seven Basin States and Lower Basin States letters have been included in the Board packet. The seven States letter emphasized the need for the Secretary of the Department of the Interior to work collaboratively with the states, Tribes, water users, and non-governmental organizations to achieve sustainable solutions in the face of worsening hydrologic conditions. Additionally, the seven States letter reiterated the need to continue collaboration with Mexico through the International Boundary and Water Commission's binational process.

The Lower Basin States letter suggested that while significant water conservation activities since 2007 had resulted in the retention in storage of more than 5.0 MAF in Lake Mead, the worsening hydrologic and water supply conditions since 2000 indicated increased risk of reaching critical reservoir elevations and reduced water supply reliability for users going forward. The Lower Basin letter stressed the need for the post-2026 operational guidelines to address the basinwide supply/demand imbalance and the continuing need to maintain and meet the obligations set forth in the Law of the River. The letter also emphasized the need for the next set of operational guidelines to utilize best available science, continue to update modeling tools and collection of water use data, consideration of total System reservoir storage contents for operational decision-making, and the incorporation of flexible water supply management tools and adaptive management to rapidly respond to changing conditions. Finally, the Lower Basin called for incentivization of voluntary water conservation and storage activities, as well as incentives for augmenting water supplies in the Basin, including binational augmentation opportunities with Mexico.

#### Glen Canyon Dam Adaptive Management Program

The Technical Work Group (TWG) for the Glen Canyon Dam Adaptive Management Program (GCDAMP) met virtually on August 9. The TWG considered a proposal developed through the Flow Ad Hoc Group to amend the High-Flow Experiment Protocol. By consensus, the TWG agreed to submit the proposal to the Adaptive Management Work Group (AMWG) for their consideration.

The AMWG met August 16<sup>th</sup> -17<sup>th</sup> in Flagstaff, AZ. The AMWG received a report from Reclamation that minor cavitation has been identified in the outlet works of Glen Canyon Dam. The cavitation likely occurred during the April High Flow Experiment (HFE). Repair will include the removal of the old coating followed by the application of new coating. It is anticipated that recoating each outlet will take approximately two months, with eight months total needed to complete the effort for the four outlet tubes. Timing of the repairs will ensure that the outlet works are available for operational needs, including potential flow experiments through Glen Canyon Dam.

The AMWG received a report on implementation of the strategic plan addressing nonnative species below Glen Canyon Dam. The National Park Service is currently planning and implementing rapid response efforts as a result of recent detections of young of the year smallmouth bass below Glen Canyon Dam and in the -12 mile slough. Reclamation has prepared a plan for potential modification of the -12 mile slough to make the area less favorable as nest habitat for warm-water invasive fish species. Modification of the -12 mile slough is anticipated to take three years, including environmental permitting. Reclamation provided a report on the potential installation of an exclusion net or thermal curtain to prevent non-native fish passage through Glen Canyon Dam. The estimated time for the installation of a net or curtain above Glen Canyon Dam has been increased to five years.

The AMWG considered a Fiscal Year 2024 budget for the GCDAMP and unanimously recommended that the budget be recommended for approval to the Secretary of the Interior.

The AMWG accepted a proposal to amend the HFE protocol and recommended the proposal to the Secretary of the Interior for inclusion in the upcoming Long Term Experimental and Management Plan (LTEMP) SEIS process. The primary recommendation of the proposal is the modification of the sediment accounting window to an annual accounting window that would facilitate consideration of both fall and spring high-flow experiments within the same accounting window.

The AMWG received a report from the Grand Canyon Monitoring and Research Center (GCMRC) on preliminary results from the April HFE. The HFE resulted in sand deposition at more than 85% of monitored beach sites, similar to previous HFEs. Following the April HFE, roughly 200,000 – 400,000 metric tons of sand have been eroded from Marble Canyon owing to higher summer balancing releases. GCMRC will conduct a complete sandbar survey in October and measure how much of the HFE sand deposits remain.

The next TWG meeting is scheduled to be held October 11-12 in Phoenix, AZ.

## GENERAL ANNOUNCEMENTS AND UPDATES

### *Salton Sea*

The Pacific Institute hosted a webinar on August 10<sup>th</sup> on public health in the Salton Sea region. A recording of the webinar is available online: <https://pacinst.org/videos/>.

### Washington, D.C. Report

#### *Waters of the United States (WOTUS)*

On Tuesday, August 29<sup>th</sup>, the U.S. Environmental Protection Agency (U.S. EPA) and the Army Corps of Engineers (COE) announced their final WOTUS rule in the Federal Register. The amendment, referenced as the “Conforming Rule” by the Agencies, makes several targeted revisions to the January 2023 Rule:

- Redefining “adjacent” to mean “having a continuous surface connection.”
- Striking all references to waters qualifying as jurisdictional on the basis of whether they “significantly affect the chemical, physical, or biological integrity of waters” and correspondingly removing the definition and qualifying criteria for “significantly affect.” Collectively, these deletions remove all elements of the January 2023 Rule that relied on Justice Kennedy’s *Rapanos* “significant nexus” test.
- Striking “interstate wetlands” from the defined list of WOTUS categories.

While the final amendment clearly reflects the *Sackett* majority’s “continuous surface connection” test, the opportunity is preserved for protection of some water features.

First, the final WOTUS rule does not remove jurisdictional protections from certain stream features such as ephemeral and intermittent features. Instead, the preamble to the Conforming Rule, includes a statement that “relatively permanent” waters do “not necessarily exclude streams, rivers, or lakes that might dry up in extraordinary circumstances, such as drought” or “seasonal rivers, which contain continuous flow during some months of the year but no flow during dry months.”

Second, the final WOTUS plan relies on guidance and regional specific tools within the authority of U.S. EPA and COE when implementing the Conforming Rule across the country. This regional approach leaves open the option for COE Districts to develop varying interpretations of “continuous surface connection” and “relatively permanent” that reflect each District’s unique geography and weather events.

The Conforming Rule goes into effect immediately upon publication in the Federal Register. Because the January 2023 Rule is enjoined in roughly half the country, the Conforming Rule will only go into effect in those states where the Biden January 2023 Rule was effective. In the other states, litigation can now proceed on the merits with courts assessing whether the Biden Administration hit the mark in conforming their January 2023 Rule with *Sackett*. Litigants in these suits are likely to also bring new claims that the Biden Administration violated the APA, both by claiming a “good cause” exemption to bypass public notice and comment rulemaking when good cause exemptions are rarely upheld, and by proceeding with immediate implementation of the Conforming Rule.

The Agencies provided an informational webinar on the Conforming Rule for September 12<sup>th</sup>. A recording of the webinar will be made available...

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