



ARIZONA GUIDE TO EXPIRATION OF THE 2007 OPERATING GUIDELINES FOR LAKES POWELL AND MEAD

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Under the 1922 Colorado Compact, the Upper Division states of Colorado, New Mexico, Utah and Wyoming share the river with the Lower Division states of Arizona, California and Nevada, with each Division apportioned 7,500,000 acre-feet of water annually. Over eighty percent of the water of the Colorado River originates as snowpack in the Upper Division, so sharing of the River's flows is accomplished through Article 3.d of the Colorado Compact, which provides that the Upper Division States will not cause the flow of the river at Lee Ferry, which is in Arizona just below Lake Powell, to be depleted below an aggregate of 75,000,000 acre-feet for any period of ten consecutive years. Under a 1944 treaty, the Republic of Mexico is entitled to 1,500,000 acre-feet of Colorado River water each year. Lake Mead and Lake Powell, the largest reservoirs in the United States, hold Colorado River water for delivery to the states and Mexico and are operated under the authority of the Secretary of the Interior (Secretary) through the U.S. Bureau of Reclamation.

The U.S. Supreme Court's ruling *Arizona v. California*, 373 U.S. 546 (1963) determined that Arizona entitled to divert 2.8 million acre-feet per year of Colorado River water in normal years. This is an important supply, constituting approximately 36% of Arizona's total water use.

Glen Canyon Dam, which forms Lake Powell, was completed in 1963, and thereafter Lakes Powell and Mead were operated under guidelines finalized in 1970, called the Long Range Operating Criteria (LROC). In 2007, in response to several years of drought and declining reservoir levels, the Secretary, in collaboration with the Colorado River states and other stakeholders, adopted a new set of operating guidelines. The 2007 Guidelines were

designed to help stabilize water levels in Lakes Powell and Mead, to provide certainty regarding shortage conditions and to incentivize conserving water in Lake Mead by providing flexibility in deliveries to certain entities through the creation of “assigned water” (also commonly known as “Intentionally Created Surplus”). The 2007 Guidelines expire on December 31, 2025 but its provisions generally remain in effect through the end of 2026.

The 2007 Guidelines include three important aspects of Colorado River management that impact all who share the river. These are:

1. The amount of water the Secretary releases annually from Lake Powell into Lake Mead under different reservoir conditions.
 - Broadly speaking, the goal of these releases is to equalize the amount of water in Lakes Powell and Mead. Releases are based on water levels in Lake Powell relative to water levels in Lake Mead among other factors.¹
2. The conditions under which the Secretary declares a shortage of Colorado River water in the Lower Division and of the amount of shortage assessed to each state.
 - A shortage is declared in the Lower Division when the U.S. Bureau of Reclamation annual August 24-Month Study projects that Lake Mead will be at or below elevation 1,075' on the following January 1.
 - Arizona is shorted 320,000 acre-feet of water below Lake Mead elevation 1,075' and above 1,050', 400,000 acre-feet of water below elevation 1,050' and above 1,025' and 480,000 acre-feet of water below elevation 1,025'. Nevada takes shortages at these levels proportional to its 300,000 acre-foot allocation and no shortages are defined at these reservoir levels for California's allocation of 4.4 million acre-feet.
3. The terms under which entities can voluntarily create and hold volumes of assigned water in Lake Mead.
 - Assigned water is created and held in Lake Mead under the Secretary's authority to allocate surplus water under Article II(B)(2) of the consolidated Supreme Court decree in *Arizona vs California* and via treaty with Mexico. It is assigned to and held by an individual entity separate from the priority system

¹ If Lake Powell were drawn down too far while Lake Mead remained relatively full, the risk that deliveries at Lee Ferry would be depleted below an aggregate of 75,000,000 acre-feet over ten consecutive years would increase, which would put the Upper Division at risk of failing to meet Colorado Compact requirements. At the same time, keeping Lake Mead relatively full avoids deep water shortages in the Lower Division. A goal of equalization between the reservoirs balances these risks.

of water allocation to which all other water in Lake Mead available for delivery in the Lower Division is subject.²

- Assigned water can be created by intentionally conserving certain water that otherwise would have been used in the priority system, by importing certain water into Lake Mead and by other means.
 - As of 2024, the Central Arizona Water Conservation District, the Gila River Indian Community, the Colorado River Indian Tribes, the Metropolitan Water District of Southern California, the Imperial Irrigation District, the Southern Nevada Water Authority and the Republic of Mexico hold accounts of assigned water in Lake Mead.
- Generally, water in Lake Mead available to but not ordered by one Colorado River contract entitlement holder can be ordered by another for delivery. Thus, for assigned water to be held in Lake Mead, several entities with contracts to Colorado River water must agree to forego their rights to order the same water over all of the years that the assigned water is held in Lake Mead. These entities signed a Forbearance Agreement in which they agreed not to order another entity's assigned water under certain conditions. The Forbearance Agreement expires on December 31, 2025 but forbearance provisions for assigned water created through intentional conservation that exists *as of that date* continue through 2036 and through 2056 for assigned water created through other means.

Despite the efforts taken through the 2007 Guidelines, and due to chronic over-allocation of the river and continuing drought, water levels in Lakes Powell and Mead are at or near historic lows. To address continuing declines in water storage, various entities in Arizona, California and Nevada entered into several agreements including the 2019 Lower Basin Drought Contingency Plan, the 2021 500+ Agreement and the 2023 System Conservation Agreement. Through these agreements the states committed to:

1. Voluntarily leave specified volumes of water in Lake Mead as Drought Contingency Plan contributions³ through the year 2026.

² Though, holders of Priority 1-3 entitlements would likely contest the Secretary's authority to cut their deliveries while withholding assigned water from the priority system.

³ If assigned water is chosen as the form of DCP contribution, it remains recoverable above elevation 1,110 until 2057.

- The voluntary contribution of water totals 192,000 acre-feet per year for Arizona between Lake Mead water levels below 1,090' and above 1,045' and totals 240,000 acre-feet per year below 1,045'.
 - The voluntary contribution of water totals 8,000 and 10,000 acre-feet per year for Nevada at these levels. California did not agree to voluntary contributions of water at Lake Mead water levels above 1,045'.
2. Through the year 2026, voluntarily leave some water in Lake Mead as *unassigned* water.
- Unassigned water in Lake Mead belongs to no one entity and bolsters the supply of water available through the priority system to all Colorado River contract entitlement holders in the Lower Division (referred to as “System Conservation”).
 - The states agreed to leave approximately three million acre-feet of unassigned water in Lake Mead. The federal government paid various entities with entitlements to Colorado River water, such as municipal water providers, agricultural interests, Tribes and mining companies to leave this water in Lake Mead.
 - The Secretary agreed to take affirmative actions to create or conserve 100,000 acre-feet per annum or more of Colorado River system water to contribute to conservation of water supplies in Lake Mead.
 - For unassigned water to be left in Lake Mead, several entities with contracts to Colorado River water must agree to forego their rights to order the same water. However, in the case of System Conservation, the water is held in Lake Mead only in the year the conservation takes place and subsequently becomes available the next year for delivery through the priority system. A group of entities, including the Director of Water Resources on behalf of the State of Arizona, signed various forbearance agreements in which they agreed not to order another entity’s conserved water. In these cases, forbearance is only required in the same year in which the system conservation activity takes place. These agreements expire at the end of 2026.

If no new set of operational guidelines is in place, upon expiration of the 2007 Guidelines and the Forbearance Agreements:

1. Rules for annual releases of water from Lake Powell into Lake Mead revert to the guidelines set forth in the LROC.
 - Generally, annual releases from Lake Powell to Lake Mead are set at 8.23 million acre-feet as an objective subject to Secretarial discretion and other factors. Arguably the Secretary has more discretion under LROC to set annual releases than under the 2007 Guidelines, which more precisely define releases based on relative water levels in Lakes Powell and Mead.
2. The specified shortages assessed to Arizona and Nevada under the 2007 Guidelines become moot and shortage determinations revert to the Secretary's authority, which has been broadly interpreted in times of shortage by the U.S. Supreme Court in its 1963 decision, *Arizona v. California*.
 - Under LROC, the Secretary has authority to "determine from time to time when insufficient mainstream water is available to satisfy annual consumptive use requirements of 7,500,000 acre-feet" after consideration of various factors.
 - When insufficient water is available,
 - Deliveries through the Central Arizona Project are cut to the extent necessary to meet the demands of more senior Colorado River rights or entitlement holders in Arizona, California and Nevada.
 - If after these cuts there still remains insufficient water available to meet the demands of more senior Colorado River contract entitlement holders, the shortage provisions of Article II(B)(3) of the decree in *Arizona v. California* become effective, meaning that the rights of the Chemehuevi Indian, Cocopah Indian, Fort Yuma Indian, Colorado River Indian and Fort Mohave Indian Reservations are satisfied first, without regard to state lines, in order of their priority dates, and then present perfected rights are satisfied according to priority.
3. Some, but not all, forms of assigned water can no longer be created.
 - Creation of assigned water in Lake Mead through extraordinary conservation activities can no longer occur.

- Creation of assigned water through importation of non-Colorado River system water and through certain tributary water into the Colorado River mainstem can continue to occur.
- Creation of a special class of assigned water, called Developed Drought Supply, can continue to occur. Developed Drought Supply water can only be created during declared shortages and must be delivered in the same year it is created.
- Rights to hold and deliver *existing* assigned water continue through 2036 for assigned water created through extraordinary conservation activities and through 2057 for assigned water used for Drought Contingency Plan contributions, and created through tributary water importation, non-Colorado River system water importation and Developed Drought Supply water.

Colorado River contract entitlement holders could theoretically continue to voluntarily leave water in Lake Mead as unassigned water, either compensated or not, but the expiration of the forbearance agreements means that another entity could simply order that same water for delivery.

Deliveries of Colorado River water to the Republic of Mexico are governed under a 1944 treaty and subsequent treaty minutes. Through various treaty minutes Mexico agreed to cuts to its deliveries under certain shortage conditions. These treaty minutes also allow Mexico to create assigned water in Lake Mead. The provisions regarding cuts to Mexican deliveries during shortage and the creation of Mexican assigned water expire at the end of 2026, though Mexico can continue to hold and request delivery of *existing* assigned water under generally the same terms and conditions that govern assigned water created by the Lower Division states through extraordinary conservation activities and used for Drought Contingency Plan contributions.

What Expiration of the 2007 Guidelines and the Forbearance Agreements Means for Arizona

Absent additional guidance from the Secretary or an agreement among the seven states that share the Colorado River, and assuming continued poor hydrology and runoff, water levels in Lakes Powell and Mead will continue to decline and Arizona can expect potentially very deep cuts to the Colorado River water imported into central Arizona via the Central Arizona Project. Eventually cuts could be deep enough to impact higher priority water users in Mohave, La Paz and Yuma Counties.

If less than 82,500,000 acre-feet of water is delivered to the Lower Division over any ten consecutive years, the United States and the Upper Division may have to contend with a legal demand from the Lower Division under Article 3.d of the Colorado Compact, which states that the Upper Division States “will not cause the flow of the river at Lee Ferry to be depleted below an aggregate of 75,000,000 acre-feet for any period of ten consecutive years.” The Lower Division asserts that the Upper Division is also responsible to deliver half of the obligation to Mexico, bringing the total ten-year obligation to 82,500,000 acre-feet. Under continued poor hydrology and runoff, it is likely that the ten-year consecutive total will fall below 82,500,000 in 2027.