COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE

REMOTE OVERSIGHT HEARING

October 15, 2021

2:00 p.m. ET

Oversight Hearing on "*Colorado River Drought Conditions and Response Measures – Day One.*"

Questions for the Record

Question from Rep. Jim Costa, CA

1. The "Law of the River" and the quantification of the Upper and Lower Basin states amounted to around 17 million acre-feet of water, which was determined was the annual flow at the time. However, we know in the previous two decades it has been more like 12.4 million acre-feet. And this does not even account for other Native American tribes with water right claims that have yet to be resolved. There is a tremendous amount of demand, and with climate change we know the yield is only going to decline. Let's say the annual yield over the next 30 years is 10 million acre-feet, maybe with climate change it's more or less. ***How do we take into account how we got to the original allocation, with the Upper and Lower Basin States and the Native American tribes, and then reallocate that on a lot less water?***

Response from Peter Nelson, Colorado River Commissioner, State of California:

While the 1922 Colorado River Compact may have laid out a scheme for the apportionment and beneficial consumptive use of up to 17.5 million acre-feet of water supplies from the Colorado River System annually, the hydrologic and water supply conditions over the past 20+ years indicate that that volume of annual water supply likely can no longer be considered certain and/or reliable. Furthermore, the great uncertainty associated with the future impacts of warming and climate change that scientists have linked to anthropogenic greenhouse gas emissions require the seven Colorado River Basin States and all of the stakeholders reliant upon these important water supplies to incorporate best science and adaptive management in developing and implementing the next set of Colorado River System operational guidelines and implementing the full range of water management, facility operations, and conservation tools available.

Collaboration, coordination, and cooperation across all of the stakeholders in the Colorado River Basin in the United States and Mexico continue to be the most important and effective tools in the toolbox. The Basin States and stakeholders have significant expertise in meeting challenges using collaborative and consensus-based processes. Relatively recent examples of collaborative problem-solving in the Colorado River Basin includes development of California's Colorado River Water Use Plan that resulted in the 2003 Quantification Settlement Agreement, the 2001

Interim Surplus Guidelines, the 2005 Lower Colorado River Multi-Species Conservation Program, the 2007 Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead, Mexico's 2017 Binational Water Scarcity Contingency Plan in Minute No. 323, and the 2019 Drought Continency Plans for the Upper and Lower Colorado River Basins.

Planning for shortfalls in water supply, whether due to variable annual hydrology or climate-change induced, are now a primary element in responsible water supply management planning and decision-making and will continue to be going forward. With respect to tribal allocations, several of the Native American tribes in the Lower Colorado River Basin have settled and quantified water rights through the 2006 Consolidated Decree in *Arizona v. California* (547 U.S. 150). Other tribes in the Basin have water rights specified in settlement agreements, and others are in ongoing water rights settlement negotiations with the Department of the Interior and individual states.

In conclusion, water managers across the Colorado River Basin in the United States and Mexico must continue to act in coordination and collaboration in developing effective strategies and programs for managing these important water supplies, taking into account recent climate science, reducing risks, and providing water users across the Basin with appropriate measures of certainty and reliability. The primary challenge that the Basin's stakeholders face today is to collaborate to address increasing hydrologic and water supply condition risks due to climate change. These risks can be reduced by developing additional innovative and proactive measures that can address the water supply challenges we face today and going forward, including when there are insufficient water supplies to fully satisfy the existing apportionments made under the 1922 Compact and other elements of the Law of the River.