

# *The Law of the River*



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# What is “the Law of the River”?

## 1.9.4 Law of the River

The treaties, compacts, decrees, statutes, regulations, contracts, and other legal documents and agreements applicable to the allocation, appropriation, development, exportation, and management of the waters of the Colorado River Basin are often referred to as the Law of the River.

**There is no single, universally agreed upon definition of the Law of the River, but it is useful as a shorthand reference to describe this longstanding and complex body of legal agreements governing the Colorado River.** Documents generally considered to be part of the Law of the River include those listed in Table 1-2.

*Glen Canyon Dam Long-Term Experimental and Management Plan Draft Environmental Impact Statement, December 2015 (emphasis added).*

# What is “the Law of the River”?

1899	The Rivers and Harbors Act (Mar. 3)	1948	The Upper Colorado River Basin Compact (Oct. 11)
1902	The Reclamation Act (Jun. 17)	1954	Consolidated Parker Dam Power Project and Davis Dam Project Act (May 28)
1904	Reclamation of Indian Lands in Yuma, Colorado River and Pyramid Lake Indian Reservations Act (Apr. 21)	1954	Palo Verde Diversion Dam Act (Aug. 31)
1904	Yuma Project authorized by the Secretary (May 10), pursuant to Section 4 of the Reclamation Act of June 17, 1902	1956	Change Boundaries, Yuma Auxiliary Project Act (Feb. 15)
1910	Warren Act (Feb. 21)	1956	The Colorado River Storage Project Act (Apr. 11)
1910	Protection of Property Along the Colorado River Act (Jun. 25)	1958	Water Supply Act (Jul. 3)
1912	Patents Act and Water-Right Certificates Act (Aug. 9 and 26)	1958	Boulder City Act (Sept. 2)
1917	Yuma Auxiliary Project Act (Jan. 25)	1960	Report of the Special Master, Simon H. Rifkind, <i>Arizona v. California</i> (Dec. 5)
1918	Availability of Money for Yuma Auxiliary Project Act (Feb. 11)	1964	International Flood Control Measures, Lower Colorado River Act (Aug. 10)
1920	Sale of Water for Miscellaneous Purposes Act (Feb. 25)	1965	Southern Nevada (Robert B. Griffith) Water Project Act (Oct. 22)
1920	Federal Power Act (Jun. 10)	1968	The Colorado River Basin Project Act (Sept. 30)
1922	The Colorado River Compact (Nov. 24)	1970	Criteria for the Coordinated Long Range Operation of Colorado River Reservoirs (Jun. 8), amended Mar. 21, 2005
1925	The Colorado River Front Work Act (Mar. 3)	1970	Supplemental Irrigation Facilities, Yuma Division Act (Sept. 25)
<i>1927–1946</i>	and Levee System Acts (Jan. 21, 1927–Jun. 28, 1946)	1972	43 CFR Part 417 Lower Basin Water Conservation Measures (Sept. 7)
1928	The Boulder Canyon Project Act (Dec. 21)	1974	The Colorado River Basin Salinity Control Act (Jun. 24)
1929	The California Limitation Act (Mar. 4)	1984	Hoover Power Plant Act (Aug. 17)
1931	The California Seven Party Agreement (Aug. 18)	1991	Reclamation States Emergency Drought Relief Act
1935	The Parker and Grand Coulee Dams Authorization (Aug. 30)	1992	Grand Canyon Protection Act (Oct. 30)
1939	The Parker Dam Power Project Appropriation Act (May 2)	1999	Offstream Storage of Colorado River Water and Development and Release of Intentionally Created Unused Apportionment in the Lower Division States (Nov. 1) (Reclamation 1999a)
1939	The Reclamation Project Act (Aug. 4)	2003	Colorado River Water Delivery Agreement (Oct. 10)
1940	The Boulder Canyon Project Adjustment Act (Jul. 19)	2006	The Consolidated Decree entered by the U.S. Supreme Court in <i>Arizona v. California</i> (1964)
1944	The Flood Control Act (Dec. 22)	2007	Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead
1944	The Mexican Water Treaty (Feb. 3); subsequent minutes of the International Boundary and Water Commission		
1947	Gila Project Act (Jul. 30)		

<sup>a</sup> Years in italics indicate amendments or related actions.

# Colorado River Compact (1922)

- \* Signed in 1922, but AZ refused to ratify
- \* Upper Division States: Colorado, New Mexico, Utah, Wyoming
- \* Lower Division States: Arizona, California, Nevada
- \* Apportions 7.5 maf/year each to the Upper Basin and the Lower Basin – 75 maf in any 10-year period
- \* Additional Lower Basin right to 1 maf/year
- \* Any water for Mexico “supplied first from ... surplus” otherwise “equally borne” by each Basin
- \* Preserves present perfected rights

# Boulder Canyon Project Act (1928)

- \* Authorized construction of Hoover Dam (i.e., Lake Mead)
- \* Allowed for ratification by 6 states including CA, if California also agreed to not more than 4.4 maf/year of consumptive use
- \* Authorized a Lower Basin compact:
  - \* 300,000 af/year to NV
  - \* 2.8 maf/year to AZ
  - \* “The State of Arizona shall have the exclusive beneficial consumptive use of the Gila River and its tributaries within the boundaries of said State”
- \* “Section 5 Contracts”

# Treaty with Mexico (1944)

- \* “Treaty Between the United States and Mexico for the Utilization of the Colorado and Tijuana Rivers and of the Rio Grande”
- \* Provides for delivery by the United States of 1.5 maf/year
- \* Surplus: “a total quantity not to exceed” 1.7 maf/year
- \* “In the event of extraordinary drought... the water allotted to Mexico ... will be reduced in the same proportion as consumptive uses in the United States are reduced”
- \* Schedules for delivery according to months

# Upper Colorado River Basin Compact (1948)

- \* Apportioned 50,000 af/year to Arizona
- \* Apportionment among Upper Division States by percentage:
  - \* Colorado = 51.75%
  - \* New Mexico = 11.25%
  - \* Utah = 23.00%
  - \* Wyoming = 14.00%
- \* Established Upper Colorado River Commission to implement the Compact
- \* Provides conditions for curtailment in the event of a call on the Upper Basin

# Arizona v. California (1963-2006)

- \* Initiated by Arizona in 1952 to confirm AZ rights to Colorado River
- \* 1963 opinion:
  - \* BCPA + Secretary's contracts with AZ, NV, and CA agencies effectively apportioned water in Lower Basin
  - \* Established the Secretary of the Interior as the "water master" in the Lower Basin (vs. the Upper Colorado River Commission in the Upper Basin)
  - \* States control the use of tributaries
  - \* Secretarial discretion re: apportioning shortage
- \* Decree (and subsequent decrees) established present perfected rights (PPRs) in the Lower Basin. Some established through settlement agreements
- \* 2006: Consolidated Decree

# Colorado River Basin Project Act (1968)

- \* Authorized Construction of the Central Arizona Project
- \* Existing uses in Lower Basin have priority during shortage years over the Central Arizona Project
- \* States may sue the United States in the event the U.S. fails to comply with the Law of the River

# Other Important Actions

- \* 43 CFR Part 414 – Offstream Storage of Colorado River Water and Development and Release of Intentionally Created Unused Apportionment in the Lower Division States (1999)
- \* Interim Surplus Guidelines (2001)
- \* California Quantification Settlement Agreement (2003)
- \* Arizona Water Settlements Act (2004)
- \* Minute No. 319, Interim International Cooperative Measures in the Colorado River Basin Through 2017 and Extension of Minute 318 Cooperative Measures to Address the Continued Effects of the April 2010 Earthquake in the Mexicali Valley, Baja California

# Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007)

- \* Coordinated operations between Lake Powell and Lake Mead – operating tiers intended to balance between 2 reservoirs
- \* Established shortage tiers in the Lower Basin for AZ and NV
- \* Established Intentionally Created Surplus (ICS) to allow storage of conserved water in Lake Mead for use in later years
- \* Based on Seven States' alternative and Seven States' Agreement
- \* Provided for consultation with the States

# Drought Contingency Plans (2019) and Binational Water Scarcity Plan (2017)

- \* Reduce risks of Lake Powell and Lake Mead falling to critical elevations
- \* Upper Basin: Drought Response Operations Agreement
- \* Lower Basin: DCP Contributions applicable to AZ, CA, and NV with US commitment; ICS flexibility during shortage
- \* Minute 323 established Binational Water Scarcity Plan – Mexico's participation in parity with Lower Basin DCP

# What happens next???

- \* Seven State negotiations –
  - \* Will include Tribes and NGOs
  - \* Must work concurrently with managing current conditions
- \* Arizona Reconsultation Committee
  - \* Includes legislative members and stakeholder representatives, including Tribes and NGOs
  - \* <https://new.azwater.gov/arc>

# What happens next: Arizona's Guiding Principles

- \* Respect existing “Law of the River” framework including existing rights, contracts and priorities
- \* Seek Basin-wide solutions with burdens shared across the Basin, not just by Arizona
- \* Focus on long-term sustainability including addressing the structural deficit, recognizing that conservation and supply augmentation are part of the long-term solution
- \* Arizona tribes are a vital component within the Arizona discussion
- \* Continue to collaborate with Mexico as part of the process
- \* No marketing of unused water
- \* No marketing of Arizona water out of state
- \* Arizona legislative leaders need to continue to be part of the discussion

# Questions?

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**PROTECTING  
ARIZONA'S WATER SUPPLIES  
*for* ITS NEXT CENTURY**