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## **Interior Department Determines ‘Tier 2 Shortage Conditions’ on Colorado River Requiring Additional Water Delivery Cuts, Other Actions in 2023**

In light of the “worsening drought crises” and “critically low reservoir conditions” in the Western United States, on Aug. 16, 2022, the U.S. Department of the Interior (“Interior”) **announced** a number of “urgent actions to improve and protect the long-term sustainability of the Colorado River System.” Assistant Secretary for Water and Science Tanya Trujillo stated that the actions are intended “to avoid a catastrophic collapse of the Colorado River System and a future of uncertainty and conflict . . . .”

The actions Interior announced – which will be of primary interest to municipalities, water suppliers, Tribes, commercial/industrial interests, agricultural operators, and homeowners located in the seven Colorado River Basin states<sup>1</sup> – include the following:

1. Under applicable Colorado River Compact of 1922 guidelines, and the 2019 “Drought Contingency Plan,” downstream releases from Lake Powell and Lake Mead (which remain at historically low water levels), will be reduced further in 2023 to protect future water deliveries and critical power production capabilities.

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<sup>1</sup> “Upper Basin” states: Colorado, Wyoming, Utah, and New Mexico. “Lower Basin” states: Arizona, Nevada, and California. In addition, the United States has Colorado River water delivery obligations to Mexico.

2. Additional water shortages/reductions in annual Colorado River allotments will be required of Arizona – 592,000 acre-feet; Nevada – 25,000 acre-feet; and Mexico – 104,000 acre-feet.
3. Basin-wide conservation measures amounting to 600,000 to 4.2 million acre-feet of water annually, to stabilize reservoir elevations (seeking consensus support on measures from “partners across the Basin states, Tribes, and the country of Mexico”). An example of intent to implement more aggressive water conservation measures is reflected in the Aug. 24, 2022, *Memorandum of Understanding by and among Colorado River Basin Municipal and Public Water Providers*, entered by the Metropolitan Water District of Southern California, the Southern Nevada Water Authority, and Denver Water, among other municipal providers.
4. Additional water infrastructure repairs/improvements will be implemented; Interior will prepare for additional releases from other “Upper Basin Reservoirs” to enhance the elevation of Lake Powell; and the potential for other “operational actions” at Lake Mead to protect it from “critically low elevations” will be evaluated/implemented.

Interior’s actions were announced at a time when much of the western half of the United States (west of the Mississippi River) remains in what experts have begun referring to as a “mega drought,” the worst that has occurred in at least 500 years. *See current U.S. Drought Monitor map.*

### Key Takeaway

The availability and reliability of legal and physical water supplies will continue to be critical for new projects of all types, and pose new and complex challenges for the continued viability of existing projects and water uses, in the West.<sup>2</sup>

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<sup>2</sup> And, increasingly, in the East, where significant portions of Connecticut and Massachusetts, and all of Rhode Island, are currently experiencing “extreme drought” conditions, and disputes among competing water users are on the upswing. *See Florida v. Georgia*, 141 S. Ct. 1175 (2021).

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