Colorado River Basin
SALINITY CONTROL FORUM

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HEARING
Subcommittee on Water, Wildlife and Fisheries
May 22, 2024

TO: **The Honorable Cliff Bentz, Chair**
The Honorable Jared Huffman, Ranking Member
House Committee on Natural Resources,
Subcommittee on Water, Wildlife and Fisheries

SUBJECT: **H.R. 7872 Colorado River Salinity Control Fix Act**

FROM: **Don A. Barnett, Executive Director**
Colorado River Basin Salinity Control Forum

The Colorado River is the most important water supply in the Southwestern United States. Water from the Colorado River is used by approximately 40 million people for municipal and industrial purposes and used to irrigate approximately 5.5 million acres in the United States. Natural and human-induced salt loading to the Colorado River causes environmental and economic damage. In 2023 the Bureau of Reclamation (Reclamation) estimated the *quantifiable* damages to Lower Colorado River Basin water users, due to elevated salinity levels, at about $348 million per year (unquantifiable damages add to this amount), including damages to consumer and commercial equipment, water supply treatment processes, agricultural productivity, groundwater replenishment activities, and wastewater recycling. Congress authorized the Colorado River Basin Salinity Control Program (Program) through the Colorado River Basin Salinity Control Act (Act) (P.L. 93-320) in 1974 to offset increased damages caused by continued development and use of the waters of the Colorado River. Past efforts have reduced current salinity levels in the Lower Basin by about 100 mg/L and the annual damages to water users by about $300 million per year resulting in several billion dollars in reduced salinity related damages to water users over the life of the Program. Yet, modeling by Reclamation indicates that the quantifiable damages will rise to approximately $447 million annually by the year 2040 without continuation of the Program.

Much of the Upper Colorado River Basin is underlain by saline soils derived from salt-laden geologic formations which were deposited by ancient seas that historically covered much of the Upper Basin. When water comes in contact with the saline soils, it dissolves salt and transports it to the Colorado River and its tributaries. The heart of the Program is to reduce the contact between freshwater and saline soils. Much of this is accomplished through irrigation water efficiency improvement practices implemented by the Bureau of Reclamation and NRCS. BLM also participates in the Program by reducing the erosion of saline soils and the washing of salts into river systems. It is much more cost effective to keep salt from entering the Colorado River System than to remove it through treatment processes once it has been dissolved into the water. What Congress created is like a cost-effective, giant upstream water treatment plant which stops salts from entering the Colorado River System and generating environmental and economic damages. It also establishes compliance with EPA approved water quality standards promulgated through the Clean Water Act.

In authorizing the Program in 1974, Congress recognized that most of the salt discharge to the Colorado River System comes from Federal lands. As initially authorized, 75 percent of the Program funding was non-reimbursable, and 25 percent was reimbursable. In 1984, through an amendment to the Act, the reimbursable portion was changed to 30 percent. The nonreimbursable portion of the funding comes from annual appropriations. The reimbursable portion of the Program funding comes from a mill levy (a kind of tax) on power sales from Federal hydropower facilities on the Colorado River.

Of the total reimbursable portion of the Program costs, 15 percent comes from the Upper Colorado River Basin Fund (Upper Basin Fund) and 85 percent comes from the Lower Colorado River Basin Development Fund (Lower Basin Fund), collectively referred to as the Basin Funds. The Act authorizes the Secretary of the Interior to adjust power rates in the Upper Basin Fund to meet Program requirements. The remaining 85 percent of the total reimbursable portion of the Program costs comes from the Lower Basin Fund. Money is generated to this fund through a 2.5 mill levy on power sales from Hoover, Parker, and Davis Dams. The 2.5 mill levy was established by Congress in 1984. It has not been adjusted for inflation, nor does the rate vary with increasing or decreasing demands on the fund. For many years the 2.5 mill levy was sufficient to meet the Program reimbursable requirements. However, with the extreme drought experienced in the Colorado River Basin beginning in about 2000, power production has dropped with the corresponding reductions in Colorado River flows. As the annual power revenues are no longer sufficient to meet the annual statutory Program requirements, the carryover balance in the Lower Basin Fund has declined.

The carryover balance in the Lower Basin Fund has now been fully expended, yet the annual reimbursable requirement from the Lower Basin Fund still exceeds the annual revenues. In 1996 Congress changed the Program funding mechanisms such that the reimbursable portion of the funding goes back into the Program as an upfront cost share. For example, prior to the change, if Reclamation was directed to construct a $10 million project, it would receive a $10 million appropriation, build the project, and then 30% (the reimbursable portion) or $3 million, would be repaid to the Treasury from the Basin Funds. After the 1996 change, if Reclamation was directed to construct a $10 million project, it would instead receive a $7 million appropriation and combine it with $3 million (still 30% of the total) from the Basin Funds as an upfront cost share in the project. With revenue in the Lower Basin Fund now below the required cost share amount, Reclamation has been forced to delay the statutorily required project implementation.

Because all the factors which go into the cost-share calculations are set by statute (i.e. appropriation, reimbursable/cost-share requirement, and mill levy) only a legislative change can fix the present funding imbalance and make this most critical Program sustainable again. The seven Colorado River Basin States, collectively through their Governor-appointed representatives to the Colorado River Basin Salinity Control Forum, have worked closely with Reclamation and NRCS to identify the least-disruptive way to fix the salinity control funding imbalance. The goal is to adjust the nonreimbursable and reimbursable percentages in just a few places while leaving the remaining funding arrangements untouched. The proposed fix (H.R. 7872) has two parts:

1. Reduce the reimbursable portion in the NRCS EQIP part of the Program from 30% to 15%. This change would reduce the up-front cost-share requirement and the pool of salinity control dollars available to the Program from the Lower Basin Fund by approximately $3.1 million annually. Federal appropriations would remain the same.

2. Reduce the reimbursable portion of operations and maintenance (O&M) on three older Reclamation projects. This change would reduce the draw on the Lower Basin Fund by about $1.2 million annually with a commensurate increase in Reclamation O&M funding.

(see attached briefing document for funding details)

If implemented, the changes proposed in H.R. 7872 will reduce the demand on the Lower Basin Fund by about $4.3 million annually and bring the fund back into balance, including a catch-up on delayed project implementation, by the year 2032. What is proposed is a small technical change or tweak to the nonreimbursable and reimbursable percentages to a portion of the funding which will make continuance of the Program possible by making the long-established funding mechanisms sustainable.

The seven Colorado River Basin States through the Colorado River Basin Salinity Control Forum seek Congress' support in making the proposed changes so that this critically important program can be sustainable into the future despite unprecedented drought in the Colorado River Basin (see attached letter of support). This Program is critically important to millions of water users and the Forum urges Congress to pass this legislation.

attachments

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October 30, 2023

Chairman Westerman
Ranking Member Grijalva
House Committee on Natural Resources

Dear Chairman Westerman and Ranking Member Grijalva:

On behalf of the seven Colorado River Basin States, through their gubernatorially appointed representatives to the Colorado River Basin Salinity Control Forum (Forum), I hereby convey our unanimous support of proposed legislation to amend the current cost-share percentages under the Colorado River Basin Salinity Control Program (Program).

The proposed changes are needed to resolve deficiencies in the cost share generated by power revenue reductions from the drought-stricken Colorado River System. The changes reflect several years of review and discussion between the Colorado River Basin States and the Federal agencies involved in Program implementation.

The Colorado River Basin Salinity Control Act (Act, 1974, as amended), authorizes the construction of projects and other activities to reduce the salt load of the Colorado River System. The Act specifies that "In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the lands of the Colorado River Basin from which most of the dissolved salts originate, and the policy embodied in the Federal Water Pollution Control Act Amendments of 1972" most of the expenses for implementation of the salinity control efforts are non-reimbursable. The remaining expenses are reimbursable (cost share).

The Act provides that the cost share in the Program is to be provided with moneys generated from mill levies on power revenues from the Upper Colorado River Basin Fund (Upper Basin Fund) and the Lower Colorado River Basin Development Fund (Lower Basin Fund). The Act provides that the Secretary adjust power rates to provide for the salinity cost-share dollars from the Upper Basin Fund. However, salinity funding in the Lower Basin fund is fixed at 2.5 mills on specific power sales from Hoover, Parker, and Davis Dams, regardless of funding need.

Pursuant to the Act, whenever there is an appropriation or allocation of funds for Colorado River salinity control activities, there is a corresponding cost-share requirement which is met by the withdrawal of moneys from the Upper Basin Fund and the Lower Basin Fund. However, in recent years, with reduced power generation due to prolonged drought conditions, and increased costs of implementing projects, there has been insufficient money in the Lower Basin Fund to meet the cost-share requirements.

The Basin States, through the Forum, have been working with Federal agencies for several years to determine the best solution to fix the funding imbalance. The attached legislation is the best solution to make the needed changes. The Basin States, through their gubernatorially appointed representatives on the Forum, unanimously support the proposed legislative fix.

Sincerely,

COLORADO RIVER BASIN SALINITY CONTROL FORUM

Bill Hasencamp

Bill Hasencamp, Chair

attachment

January 2024

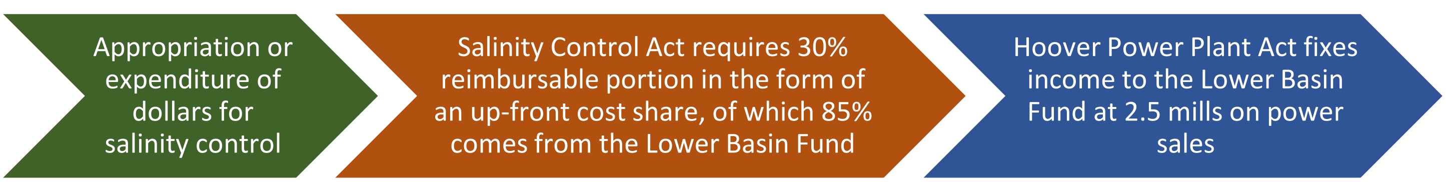
Colorado River Salinity Control Fix Act

Background

- Ancient seas that once covered much of the intermountain western U.S. left significant saline rock formations. When water contacts these formations, it dissolves salts and discharges them to the Colorado River and its tributaries, thereby elevating the River's salinity, which causes environmental damage and hundreds of millions of dollars in economic damages each year to water users.
- Most of the salt load of the Colorado River System comes from Federally administered lands.
- In 1974, Congress authorized the Colorado River Basin Salinity Control Program (PL 93-320) to implement projects to reduce the salt load of the Colorado River. Most of the projects are implemented by Reclamation (BoR) and NRCS.
- Per the Salinity Control Act, funding for the Program derives jointly from appropriations ("nonreimbursable portion," generally 70%) and from Federal Colorado River System power project revenues deposited in the Basin Funds ("reimbursable portion," generally 30%).
- Initially the reimbursable portion took the form of repayment to the Treasury, but in 1996 Congress changed it to an up-front cost share which puts the funds back into the Program.

Need for Legislation

- Per the Salinity Control Act, 15% of the reimbursable portion derives from the Upper Colorado River Basin Fund. The Secretary adjusts power rates to accommodate for Program needs. The remaining 85% of the reimbursable portion comes from the Lower Colorado River Basin Development Fund. Unlike the Upper Basin Fund, salinity dollars to the Lower Basin Fund are fixed by the Hoover Power Plant Act (1984, PL 98-381) at 2.5 mills on power sales ($2.50 per MWh) regardless of Program needs.
- Hence, when Congress appropriates money for salinity control, the Salinity Control Act requires a 30% up-front cost share, of which 85% comes from the Lower Basin Fund, whose income is fixed at 2.5 mills.



- For nearly 40 years this funding arrangement has worked. However, the severe 20-plus-year drought in the Colorado River System has reduced power production in the Lower Basin, and power sales **no longer generate sufficient money** to meet the reimbursable requirement.
- Only a legislative fix can adjust the reimbursable percentages to bring it in balance with the dollars available from the Lower Basin Fund.

Proposed Fix/Support

- The seven Colorado River Basin States, collectively through their Governor-appointed representatives to the Colorado River Basin Salinity Control Forum, have worked closely with BoR and NRCS to identify the least-disruptive way to fix the salinity control funding imbalance. The goal is to adjust the nonreimbursable and reimbursable percentages in just a few places while leaving the remaining funding arrangements untouched. The proposed fix has two parts, summarized in the bullets and table below:

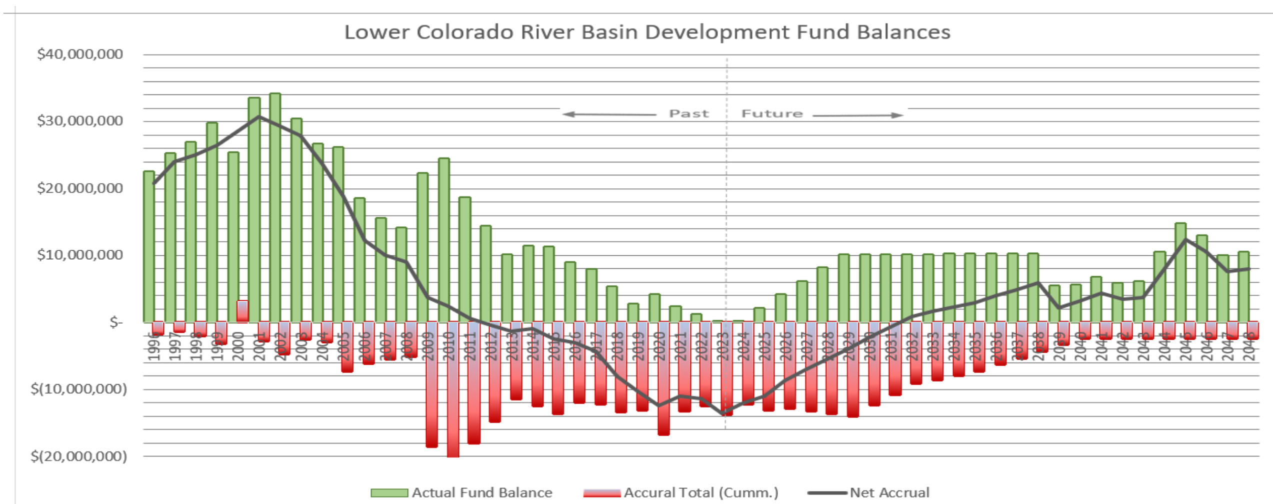
    1. Reduce the reimbursable portion in the NRCS EQIP program from 30% to 15%. This change would reduce the up-front cost-share and pool of salinity control dollars available to the Program from the Lower Basin Fund by approximately $3.1 million annually. Federal appropriations would remain the same.

    2. Reduce the reimbursable portion of operations and maintenance (O&M) on three BoR projects. This change would reduce the draw on the Lower Basin Fund by about $1.2 million annually with a commensurate increase in Reclamation O&M funding.

Current and Proposed Non-Reimbursable Percentages by Project and Project Element

Name	Unit	Construction	Operations & Maintenance	Replacement	Wildlife	Reduction in Nonreimbursable Costs
Paradox	1592 (a)(1)	75%	~~75%~~ 90%	75%	~~75%~~ 90%	$530,000
Grand Valley	1592 (a)(2)	75%	~~75%~~ 100%	75%	~~75%~~ 100%	$420,000
Las Vegas Wash	1592 (a)(3)	75%	75%	75%	75%	
Lower Gunnison	1592 (a)(4)	70%	70%	70%	70%	
McElmo/Dolores	1592 (a)(5)	70%	~~70%~~ 100%	70%	~~70%~~ 100%	$280,000
Basinwide	1592 (a)(6)	70%	70%	70%	70%	
EQIP	1592 (c)		~~70%~~ 85%			$3,110,000
						$4,340,000

- Because Reclamation, the fiduciary of the Basin Funds, cannot overdraw the funds, the recent shortfall in revenues has forced delays in salinity control implementation. The graph below shows the salinity portion of the Lower Basin Fund with the net accrued deficit of implementation funds in recent years (black line). Part 1 of the fix (above) stops the accrued deficit from increasing. Part 2 is required to bring the accrued obligation back to a positive balance by 2032.



- This bipartisan funding fix was developed in conjunction with BoR and NRCS and is unanimously supported by all seven Colorado River Basin States. The fix is captured in the proposed Colorado River Salinity Fix Act.