

**LAS VEGAS VALLEY WATER DISTRICT  
BIG BEND WATER DISTRICT  
KYLE CANYON WATER DISTRICT  
JOINT BOARD MEETING  
DECEMBER 3, 2024  
MINUTES**

CALL TO ORDER 9:00 a.m., Commission Chambers, Clark County Government Center,  
500 South Grand Central Parkway, Las Vegas, Nevada

DIRECTORS PRESENT: Marilyn Kirkpatrick, President  
Jim Gibson, Vice President  
William McCurdy II  
Ross Miller  
Michael Naft  
Tick Segerblom

DIRECTORS ABSENT: Justin Jones

STAFF PRESENT: John Entsminger, Dave Johnson, Doa Ross, Tabitha Fiddymont, Kevin Bethel

*Unless otherwise indicated, all members present voted in the affirmative.*

**COMMENTS BY THE GENERAL PUBLIC**

*For full public comment, visit [www.lvwwd.com/apps/agenda/lvwwd/index.cfm](http://www.lvwwd.com/apps/agenda/lvwwd/index.cfm)*

Laura McSwain, 2727 Ashby Ave., representing the Water Fairness Coalition, commented on item #5 and read directly from written comments which were submitted and are included in these minutes.

Pete Foley, 4512 Fernbrook Rd., commented on item #7 and compared the District's Service Rules to the Service Rules for the other water systems that it manages, primarily the water billing and enforcement information. He stated that there are different rules for different parts of the community and does not understand why only District customers are faced with the Excessive Use Charge. He also stated that the community was promised by the District an accounting of the Excessive Use Charge revenue and has still not yet received that information.

Ed Uehling, Las Vegas, spoke on item #5 and distributed written comments to the board. He stated that item #5 has inadequate and inaccurate information that does not conform with the IRPAC's recommendations. He stated that the IRPAC violates Nevada's information laws and is a dubious organization. His written comments are included in these minutes.

**ITEM NO.**

**1. Approval of Agenda & Minutes**

FINAL ACTION: A motion was made by Vice President Gibson to approve the agenda and the minutes from the joint meeting of November 5, 2024. The motion was approved.

**CONSENT AGENDA Items 2 – 5 are routine and can be taken in one motion unless a Director requests that an item be taken separately.**

- 2. Approve and authorize the General Manager to sign Change Order No. 5 to the contract with Farr Construction Corporation for potable water tank rehabilitation in an increased amount not to exceed \$100,530.**
- 3. Approve and authorize the President to sign an amendment to the existing agreement between the City of Las Vegas and the District for construction of water facilities as part of the CLV Pinto Lane Streetscape Improvements Phase II Project, increasing the existing agreement by \$22,988, resulting in a total amount not to exceed \$591,023.**
- 4. Approve and authorize the President to sign an interlocal agreement between Clark County and the District for the construction of water facilities as part of the Regional Transportation Commission Maryland Parkway Bus Rapid Transit, from Sahara Avenue to Las Vegas Medical District Project for an amount not to exceed \$1,458,664.**

- 5. Approve and authorize the General Manager, or his designee, to sign an agreement between HDR Engineering, Inc., and the District to provide professional design engineering services for the Valley View Campus Central Chiller Plant Project in an amount not to exceed \$2,049,063.**

John Entsminger, General Manager, made a correction of a typo on item #2, and stated that it should be Change Order No. 7, not Change Order No. 5.

President Kirkpatrick made a clarification on item #5, and stated that the IRPAC is not an association, but rather a citizens advisory committee that was established by the Southern Nevada Water Authority (SNWA) and approved by its Board of Directors. Mr. Entsminger added that the advisory committee made recommendations on both conservation measures and the long-term capital plan, as well as how to finance those initiatives.

Vice President Gibson recommended that at a future meeting, staff provide more information for the public about what is described in item #5.

FINAL ACTION: A motion was made by Vice President Gibson to approve staff's recommendations. The motion was approved.

### **BUSINESS AGENDA**

- 6. Conduct a Public Hearing to consider and adopt Service Rule changes increasing non-potable water rates and removing rules related to the installation of non-potable water facilities and non-potable water system connections.**

President Kirkpatrick opened the public hearing.

Serena Kasama with Carrara Nevada spoke on behalf of some of the affected golf courses. She stated that the golf courses appreciate the constructive conversations with SNWA and are in support of the timeframe and rate implementation plan.

With no others wishing to speak, President Kirkpatrick closed the public hearing.

FINAL ACTION: A motion was made by Vice President Gibson to adopt the Service Rule changes as described in item #6. The motion was approved.

- 7. Conduct a Public Hearing to consider and adopt changes to the Service Rules for the Blue Diamond Water System, Big Bend Water District, Kyle Canyon Water District and Searchlight Water System to restrict nonessential water use, prohibit water waste, implement fees and charges for water theft, and make other clarifying revision**

Mr. Entsminger stated that all these changes currently exist in the District's Service Rules, so this is simply making them uniform for all the outlying systems that the District manages.

President Kirkpatrick opened the public hearing.

Pete Foley commented on the sentiment of making the rules uniform for all systems, stating that this was untrue, noting some areas in the valley face an Excessive Use Charge and some do not. He added that it is unfair and inequitable.

With no others wishing to speak, President Kirkpatrick closed the public hearing.

FINAL ACTION: A motion was made by President Kirkpatrick to adopt changes to the Service Rules for the Blue Diamond Water System, Big Bend Water District, Kyle Canyon Water District and Searchlight Water System as described in item #7. The motion was approved.

### **COMMENTS BY THE GENERAL PUBLIC**

Laura McSwain followed up on something related to item #5 and explained why monitoring expenditures is so critical. She referenced a news article from the Arizona Daily Star written on November 28, 2024, related to litigation on the Colorado River compact and stated that all dollars should go towards protecting our water resources. She requested information that was promised by the District of an accounting of the Excessive Use Charge revenue, as well as the expenditures at the Springs Preserve. She submitted additional comments which are included in these minutes, as well as the previously mentioned news article from the Arizona Daily Star written on November 28, 2024.

Sharon Sealy, 6475 Darby Ave., stated that the community's quality of life has been affected by water conservation decisions of the board, specifically the Excessive Use Charge, the removal of grass, and the installation of artificial turf, which contain hazardous materials. She said the District's excessive charges are unfair and is concerned about the increasing temperatures in the Las Vegas valley. She suggested that staff focus time and resources on developing drought-tolerant grasses.

Carol Reynolds, 2740 Mann St., recently visited Phoenix and saw a large contrast in the outdoor spaces that residents enjoy, compared to Las Vegas' spaces, because of strict conservation measures. She stated that it appears that City and County officials are more interested in using taxpayer money to fund the hospitality industry and professional sports interests and cater to developers. She stated that locals are punished by the unreasonable water policies enacted by officials. She spoke about the Bezos Earth Fund that has committed \$400 million to funding grants to underserved urban areas and stated that Las Vegas did not meet requirements because of the lack of community input.

Diane Henry, 7525 Coley Ave., expressed frustration about the District's heavy-handed Excessive Use Charge and other conservation measures, but stated that the proposed septic waiver program is good and sorely needed, and thanked the board as they rethink the excessive fees and restrictions that were proposed. She stated that the proposed fees are a slap in the face of property owners and any waiver fees should be cost-based. She added that just because the board can be extreme in its water policies doesn't mean that it should.

Pete Foley called into question the District's marketing strategy, stating that it is highly inappropriate and misleads consumers in an effort to manipulate behavior. He stated that the most recent advertising campaign does the same and displays a lot of inaccuracies. He estimated that the District spends approximately \$10 million annually on marketing. He added that this year was recorded as having the most deaths in Clark County due to heat and its impact. He said that part of it is climate change, but the loss of the urban forest in Southern Nevada and the increase in the heat island index contributes to this.

Michelle Ravell, Alexander Rd., stated that the Clark County Commission was elected to represent the people of Clark County, and she feels like there is no representation for the people with regards to water policy and the challenges that the community faces.

Margaret Matherly, 10629 Shoal Haven Dr., stated that in August she found a leak in her yard, which was repaired, but received a water bill of \$700. She said she called the District and staff told her that her water meter was still showing water flow and that there must be another leak on her property. She stated that she hired a plumber, and they found the leak and repaired it. She said that she received another large water bill and a water waste notice stating that she was failing to adhere to mandatory watering restrictions, but her landscaper told her that she was meeting those requirements. Ms. Matherly submitted her water waste warning notice which is attached to these minutes.

Ed Uehling, Las Vegas, asked how much water will be saved spending \$2 million of taxpayer money as described in item #5. He stated that the board is not willing to ask the District questions about its programs and initiatives. He mentioned the IRPAC, how its members were appointed, and added that staff are misinterpreting IRPAC's recommendations.

President Kirkpatrick concluded the meeting and stated that in the first quarter of 2025, she would like to discuss what a growth moratorium would look like, the current and projected levels in Lake Mead, and the Colorado River negotiations and implications. She would like to inform the members of the public, so they properly understand the current and future water resources in Southern Nevada.

### **Adjournment**

There being no further business to come before the board, the meeting adjourned at 9:40 a.m.

**Copies of all original agenda items and minutes, including all attachments, are on file in the General Manager's office at the Las Vegas Valley Water District, 1001 South Valley View Boulevard, Las Vegas, Nevada.**

# Public Comment received for the 12/3/24 LVVWD Board of Directors Meeting



December 3, 2024

LVVWD Meeting Comments: Item #5

"To be a steward of water and a leader in conservation, the District strives to showcase how water conservation can be accomplished in building cooling."

The District's responsibility is to deliver water based on the cost of delivery and facility maintenance.

The agreement being considered for approval includes the following breakdown for engineering services for an "Air-Cooled Chiller, with a price tag of \$2,049,063. A "previous study" is referenced.

Project Management	\$188,921
Design Concept Memorandum	\$103,128
Predesign	\$281,591
Design	\$734,186
Bid Phase Design Services (T&M)	\$57,938
Engineering Services During Construction (T&M NTE)	\$217,451
Record Drawings	\$29,569
Supplemental Services (T&M)	\$250,000
Subtotal	\$1,862,784
Contingency	<u>\$186,279</u>
Total	<u>\$2,049,063</u>

If this technology is being developed in order to SHOWCASE how water conservation can be accomplished and the Districts' leadership, why is it included in a consent agenda? Will this be categorized as a "conservation" expenditure? What are the budgetary numbers for the project's completion? There must be some. It doesn't seem reasonable for this kind of spend, absent a general understanding of what the full cost is expected to be, not to mention a cost benefit analysis. "Conservation leadership" also includes respect for those paying the tab.

What are the ratepayers in for on a project that few can afford to implement within the private sector? Particularly a retrofit. The meeting from May 3, 2022, that approved the research for the best option to change out "consumptive-use cooling towers" was completed in November 2022. If there is information available somewhere that elaborates on this finding, please point it out.

Considering that "several buildings" are referenced in the background, it seems that the public is entitled to a more robust discussion on this investment that includes next steps, the bid process, and something more elaborate than simply stating that "funds for future year expenditures will be budgeted accordingly." This project seems better suited for a new build where the District can operate under the same rules of engagement and fiscal constraints of the rest of the community. As a consent agenda item, the public is being denied relevant information and the opportunity for oversight it is entitled to. As our representatives, the board should want that transparency as well.

Laura McSwain, President  
Water Fairness Coalition, Inc

## Public Comment received for the 12/3/24 LVVWD Board of Directors Meeting

3December2024

To: LVVWD Board  
From: Edmund Uehling [ed.uehling@yahoo.com](mailto:ed.uehling@yahoo.com) 702-808-6000 (leave message)  
Re: Item #5 of today's agenda (\$2+million to replace chiller at Valley View offices)

Item #5 contains several inaccuracies and raises questions that should be considered by this Board—particularly since none of you attended any of the IRPAC meetings that are cited as go-ahead signals for potential multi-million-dollar boondoggles such as Item #5. It incorrectly asserts that the 2019-21 IRPAC—an ad hoc fake organization whose membership and meetings were completely controlled by SNWA bureaucrats leadership—mostly in violation of the Nevada State open meeting laws, such as refusing to release its agendas until the start of its meetings, permitting changes and votes with no public input, etc..

Having attended nearly all of its meetings I can pretty safely assert that the recent run-away policy of outlawing all industrial cooling towers was NEVER discussed by IRPAC. Typical of the sham policies promoted by SNWA/IRPAC, while other less harmful means (“geothermal cooling and single pass cooling”) were actually discussed, there is literally zero information in either Item #5 of this agenda or the actual IRPAC policy recommendation #12 (of 22 total policy recommendations) that justify either taxpayers or businesses to spend \$2M to “conserve” an unstated amount of water. I.e., I don't believe anyone would have come away from the IRPAC meetings believing that their businesses might be saddled with a \$2+million bill for saving relatively tiny amounts of water in exchange, much less for the purpose of PROMOTING (no less) the most wasteful water use: single-family developments.

Consistent with the hidden agendas behind the haphazard, political decision-making of water initiatives, there is no cost-benefit analysis of this project in Item #5 (see below). Additionally, as has always been the guiding principle behind LVVWD Board's decision-making, innocent parties (in this case every LVVWD customer) will pay the cost of SNWA fanaticism, incompetence and corruption—not the highly subsidized political contributors/beneficiaries!

IRPAC Item #12: Evaluate changes necessary to reduce current and future consumptive water losses associated with evaporative cooling technology.

Evaporative cooling represents a large consumptive use in Southern Nevada. New technologies such as geothermal cooling and single pass cooling may greatly reduce the amount of water currently being lost by evaporative cooling practices, and additional research is needed to assess how best to deploy and utilize more water efficient cooling technologies. The committee supported continued efforts towards reducing water use in this sector.

Item #5 of today's agenda intentionally misinterpreting IRPAC's declaration on specific consumptive use of water by existing residents and businesses WITHOUT either referenc4 to the solutions proposed by IRPAC or cost benefit analyses. “On October 17, 2019, the SNWA Board of Directors (SNWA Board) established an Integrated Resource Plan Advisory Committee (Committee) to review the region's hydrologic conditions and Southern Nevada's water conservation initiatives. The Committee recognized that climate change, a growing population, and system loss necessitate further reductions to consumptive water use in Southern Nevada. The Committee made several conservation-related recommendations, including the recommendation that the Authority evaluate changes necessary to reduce current and future consumptive water losses associated with evaporative cooling technology.

## Public Comment received for the 12/3/24 LVVWD Board of Directors Meeting

December 2 2024

To: Members of the LVVWD Board

From: Ed Uehling. [Ed.uehling@yahoo.com](mailto:Ed.uehling@yahoo.com) 702-808-6000

Re: Defective Minutes of 5 November 2024 meeting

For a number of months, the public has been able to rely on the minutes to understand what has been said at the meetings of this Board. The person creating those minutes made a consistently honest attempt to capture what citizens have expressed during public comment. Prior to the intervention of that individual, the Board's secretary/minute writer went out of their way to make the public commentator look ridiculous or, at least, difficult to understand. I, therefore, request that the Board change the minutes to make my comment understandable. Failing this, I submit the following context and information which better explains the impossibility of conserving our way out of our water shortages:

Ed Uehling, Las Vegas, spoke on item #16—Water Conservation Plan—and drew attention to the fact that there was given no consideration in that plan to creating additional sources of water. He pointed out that it is impossible for Las Vegas to conserve its way out of the limited supply allocated 100 years ago when fewer than 10,000 people lived in the Valley.

Far worse than the above, however, is the treatment given to another speaker from the public at the same meeting. Ms. Laura McSwain: provided nearly 10 pages of serious research on the dangers posed to the Clark County public, particularly our young people, by the substitution of grass by materials comprised of micro-plastics. Not only is her research far more sophisticated and pertinent than anything produced by the 1600 employees of the LVVWD during the 30 years I have been attending your and SNWA board meetings. While ingrained policies have been adopted by both boards 1) to ignore completely, if not treat as an unnecessary burden, anything presented by the public regardless of its accuracy or seriousness and 2) to pass-off all costs of misguided policies to other public agencies or, as in this case, to the long-term health of Southern Nevadans (even children). That's what this agency did with regard to the tens of thousands of trees you purposely destroyed and the Eastside heat island you created on behalf of your developer friends.

What purpose does public comment serve under these autocratic conditions? Or does it result from cowardice? Not one word came from the board in consideration of her comments and her serious research and, as is typically the case, neither the board or its incompetent and care-only-for-themselves-management team bothers to discuss this very serious issue during its December meeting.

**Public Comment received from Laura McSwain for  
the 12/3/24 LVVWD Board of Directors Meeting  
(10 pages)**



December 3, 2024 – Public Comment

**December's meeting is noteworthy NOT for what is included, but what is lacking**.....an agenda item that identifies **promised** information regarding the revenue and expenses associated with **Excessive Use Charge penalties**, and the **Springs Preserve**. This information was asked for by both Commissioner Gibson and Chairman Tick Segerblom at the [May 20, 2024 special meeting](#) with a response in the affirmative from GM, John Entsminger. The fact that "all future conservation programs have yet to be deployed" is irrelevant for this request. What is of concern is the regular monitoring of money that has been a bone of contention by those impacted. Impacted by what has been lost in personal financial security, personal loss of investments in landscaping either by death, disposal or replacement, and just the loss of being able to enjoy the fruits of one's labor. As far as the Springs Preserve, this is arguably an investment outside the boundaries of the LVVWD charter and deserves direct and regular cost-benefit analysis.

At every subsequent meeting the absence of this information has been addressed on public record. Finally, during the [September 3rd meeting](#), Commissioner and President of the LVVWD Board of Directors, Marilyn Kirkpatrick, said it would be available in the "Fall." During the November meeting, a hearing on the financials being submitted to the State of Nevada was presented, still no info on the Excessive Use Charge Penalties or the Springs Preserve. One would think that an **AUDIT REPORT** would have had enough information to produce some measure of information on the revenue and expenses for these "**profit centers**". As has been discussed previously, LVVWD



and SNWA both “lump” expenditures together into groups making it impossible to scrutinize programs individually. And in the most recent financial statements presented Excessive Use Charge penalties have been combined with general operating revenue.

It is important to keep up the pressure. As was pointed out in the [November 24th Newsletter about Injustice](#), Commissioner Gibson objected to a proposal during the most recent [November 21st, 2024 SNWA meeting](#) (minutes are not yet available, but it is better to listen to the audio of the meeting to get the full information anyway).

The Executive Team of LVVWD/SNWA put forward a waiver process for residents requiring septic permits in order to affordably build their homes. They would be required to pay a fee of \$40,000, as well as a monthly fee until municipal services were close enough to be required to attach. **In the nearly two years that WFC has been present at meetings, rarely are there questions, let alone disagreement and substantive deliberation about policy prescriptions. This was a first and hopefully not the last.**

**Why is this important?**

**Following normal chain of command, it is the responsibility of the voters and ratepayers to oversee the politicians hired to oversee and protect residents from burdensome policies and fiscal irregularities brought about by bureaucracy. What we are witnessing is a general lack of oversight at both the public and the political levels.....it is up to us!**

Laura McSwain, President  
Water Fairness Coalition, Inc

FEATURED

## Colorado River compact clash: Arizona officials warn of looming legal battle over water cuts

By TONY DAVIS

The Arizona Daily Star via Tribune News Service

Nov 28, 2024



The Colorado River cuts through Black Canyon, June 6, 2023, near White Hills, Ariz. The seven U.S. states that draw water from the Colorado River basin are suggesting new ways to determine how the increasingly scarce resource is divvied up when the river can't provide what it historically promised.

Associated Press/Today's News-Herald file

An outcome long held to be unthinkable for the Colorado River Basin — litigation — has entered the realm of the thinkable.

It may even be likely, in the face of continued river water shortfalls and irreconcilable conflicts between the Lower Basin states including Arizona and the Upper Basin states over how to fix them.

The clear possibility of lawsuits loomed large this past week at a public meeting in Phoenix. Top Arizona water officials made the case that the Upper Basin states are only three years away from the point where they're not sending enough water from Lake Powell downstream to Lake Mead to meet legal obligations set by the 1922 Colorado River Compact.

That — and the differences between the two basins over how to share the pain of water shortages — could spark court fights, an outcome that until now was seen as highly undesirable for many reasons. Not least, it's that a lawsuit would blow up and jeopardize a longstanding tradition of collaboration among the basin states. It would also drag out the conflicts over the Colorado almost indefinitely — as the river's supplies continue declining.

The 1922 compact divided the river's water rights between the two basins and set minimum requirements for how much Upper Basin states must send downriver to the Lower Basin states over 10-year periods. Arizona, Nevada and California are the Lower Basin states. Utah, New Mexico, Colorado and Wyoming make up the Upper Basin.

Litigation would be preceded by what water experts say is a "compact call," a never-used tactic in which Lower Basin states would demand that the Upper Basin reduce its water uses to bring releases in line with compact requirements.

"When you do a compact call, that is akin to dropping a bomb into the process," said David Wegner, a retired U.S. Bureau of Reclamation engineer who still works on water issues as a member of a National of Academy of Sciences Advisory Board.

### **Colorado River Water Cuts**

The Colorado River flows through the Grand Canyon. Litigation between the river's Lower Basin states, including Arizona, and Upper Basin states may be likely, in the face of continued river water shortfalls and irreconcilable conflicts over how to fix them.

Both basins' officials agree the compact requires the Upper Basin states to deliver 75 million acre-feet of water to the Lower Basin over a decade. One big difference arises because the Lower Basin states also make the case — and the Upper Basin disagrees — that the Upper Basin states must make available another 750,000-acre feet annually over a decade to help satisfy U.S. obligations to deliver twice that much in that time to Mexico. The latter boosts the total delivery obligation to 8.25 million acre-feet — the equivalent of eight years' worth of Central Arizona Project deliveries to Arizona.

There is no provision in the 1922 compact for someone to make a compact call, said longtime water researcher and former Colorado regional water official Eric Kuhn. But the idea of such a call has evolved over the years to mean the Lower Basin states would demand the Upper Basin states curtail uses and deliver more water to the Lower Basin, Kuhn said.

"The Upper Division states would almost certainly say 'hell no!' The Lower Basin States would then go to court to ask the Supreme Court to force the Upper Division states to implement a compact call to deliver more water," Kuhn said.

At the meeting of water officials Monday in Phoenix, Arizona Department of Water Resources Director Tom Buschatzke said he doesn't want Arizona being "backed into a corner" and taking an unacceptable negotiated deal to avoid litigation.

At the same time, he said, "I do not want litigation. There is uncertainty with litigation. We see that in other basins, with judges running rivers. It's not good for anybody."

Nevada officials declined to comment on remarks by ADWR and Central Arizona Project officials about the possibility of going to court.

## **Colorado River Water Cuts**

Water flows along the All-American Canal near Winterhaven, California. The canal conveys water from the Colorado River into the Imperial Valley. California officials are “united” with Arizona on the need to enforce the 1922 river compact.

But California’s Colorado River Commissioner J.B. Hamby said California officials are “united” with Arizona on the need to enforce the compact’s legal obligations if necessary.

And a number of local officials, including Tucson City Manager Tim Thomure, said they also would support Arizona’s position if it comes to that.

“A compact call is the elephant in the room on the Colorado River,” Hamby said. “The risk of conflict will only grow if the Upper Basin states fail to work in good faith with the Lower Basin to achieve basin-wide reductions and sustainable river management.

“Inaction places the entire Colorado River Basin at risk, including the risk of involuntary curtailments to Upper Basin water users,” he continued. “These risks are far from hypothetical and have been known for decades — they could disrupt major metropolitan areas like Denver and provoke serious conflicts between senior agricultural users and junior urban users within the Upper Basin.

“The only viable path forward is compromise — anything less jeopardizes the future of the entire basin and Upper Basin water users,” Hamby said.

### **“A giant chasm” in viewpoints**

CAP General Manager Brenda Burman outlined serious concerns at Monday’s meeting of the Arizona Reconsultation Committee.

Those concerns are that fairly soon, the Upper Basin won’t meet its obligation, if annual releases from Lake Powell to Lake Mead stay at their current level of 7.48 million acre-feet until then.

“If it continues like this, the Upper Basin will be out of compliance, possibly as early as 2027,” Burman said.

This is happening at the same time the two basins have been deadlocked for nearly nine months over competing proposals for reducing humans' take from the Colorado.

The Upper Basin proposal calls for the Lower Basin to take all the needed future cuts in water supplies. That's partly on the grounds that the Upper Basin currently uses far less river water every year than its annual legal share. The Lower Basin is using much less water than it used to, but it still uses significantly more water than the Upper Basin, and when evaporation is considered, it uses more water than its 1922 compact allocation.

The Lower Basin proposal says it will swallow the first 1.5 million acre-feet of cuts needed to eliminate its long-standing structural deficit between water use and supplies.

But if more cuts are needed, its proposal would split them equally between the basins. The Lower Basin states argue that it's not fair to ask them to bear the entire burden of bringing the depleted river into balance.

#### Upper and Lower Basins, Colorado River

At Monday's meeting, Burman said that under the Lower Basin proposal, the Upper Basin's share of cuts would be much less than the cuts it would have to take if the Lower Basin states sued to force the Upper Basin into complying with the compact.

"I hope this underlines why we believe the Lower Basin alternative is a compromise," Burman said.

So far, the Upper Basin has only offered to make "voluntary, compensated reductions in water use," but those reductions wouldn't have any certainty and would be pretty small in size, said ADWR Director Buschatzke.

The Upper Basin states also want to eventually "grow" their water use by building additional projects to store and/or divert river water, without regard to their river compact obligations, he said.

"This is a visceral issue. There's a giant chasm" between the two basins on that point, he said, "and it is a bottom line for all three of us ( Lower Basin states)."

#### **"Disappointed" with Arizona**

Responding, Becky Mitchell, Colorado River commissioner for the state of Colorado, said, "It is disappointing that Arizona is considering destabilizing litigation in the Colorado River Basin. It appears to be in an effort to avoid reducing their uses in sufficient amounts to stabilize the system in a drier future."

"The Upper Division States have fully complied with the Colorado River Compact, and use millions of acre-feet less than our apportionment every year," said Mitchell, in a written statement.

That's due to what she called "strict administration of water rights" and regular water shortages on tributaries to the river in the Upper Basin from which farmers draw their water.

"The Upper Division States' alternative suggests that the Lower Basin water users should also take steps to live within the available supply, as Upper Basin water users have done for years," Mitchell wrote.

"Colorado is committed to working with the other basin states, the tribal nations, and the Bureau of Reclamation towards collaborative and sustainable solutions on the Colorado River. We are prepared to defend Colorado's significant interests in the Colorado River.

"But I believe that the best outcomes, particularly for Arizona and the other Lower Basin States, happen when the states negotiate together," Mitchell said. "This moment makes it clear that the status quo is not working. We cannot continue the demand-based management of Lakes Powell and Mead. We must move to a supply-based framework where actual water supplies mean the entire Colorado River Basin is living within the means of the river."

### **"50/50" who would win**

Legal experts are split over the Lower Basin's chances of winning in court over the compact.

Kuhn said, "I'd say it's 50/50 as to which side has the better case, but it's a certainty that such a case would take years for the court to make an actual decision."

Sarah Porter, director of Arizona State University's Kyl Center for Water Policy, said she believes the "Lower Basin has a pretty strong case" if water releases drop below 8.25 million acre-feet annually over 10 years.

The Upper Basin states and their legal supporters note the compact required them not to "deplete" the river's flow below that level. They say that requirement doesn't apply when the depletion is caused by climate change.

But nothing in the compact appears to make an exception for something like climate change, Porter said. Officials did contemplate a long-term drought back in 1922, and "there was an understanding that weather was super unpredictable and the risks were allocated," she said.

As for the Upper Basin's obligation to Mexico, ASU law Professor Rhett Larson noted that the 1968 law that authorized construction of the CAP's canal system makes it explicit that the Upper Basin has an obligation to Mexico. The law makes it a "national obligation" to satisfy Mexico's water right to the Colorado River under a 1944 treaty.

"A national obligation is hardly national if it applies only to some of the states, or to one basin," Larson said.

But University of Colorado law Professor Mark Squillace said he suspects Lower Basin state officials understand that suing to enforce an alleged compact violation "opens a can of worms that would be better off left closed."

If the Lower Basin were to sue, the Upper Basin might well choose to defend itself on the grounds that the 1922 compact is void, as a matter of contract law, at least as to its water allocation "because it was based upon a fundamental mistake of fact," he said.



“That mistake, of course, was the assumption that the river would produce on average about 16.9 million acre-feet, which was roughly the amount that was being produced during the period that preceded the compact,” he said.

It’s been far less and is now down to about 12 million. The Lower Basin’s claim of being entitled to 8.25 million acre-feet a year would leave the Upper Basin with something less than 4 million a year.

“Whatever one thinks of the compact, this is surely not what the drafters intended,” Squillace said.

This case could go several different ways, “but I think the federal government would get involved before it turns into a bloodbath between the states,” said Wegner.

ASU water researcher Kathryn Sorensen, however, said the amount of water over which the basins are fighting — up to 4 million acre-feet in potential annual cutbacks — may be too big to be settled through collaboration.

“I desperately hope someone pulls a rabbit out of the hat,” Sorensen said.

“With 2 million acre-feet, you may be able to find the right package of wins and losses and tradeoff. At 4 million, those tradeoffs become so enormous, so obstructive, at that point, you might as well play this out and see who wins. What are you left with? You go to the mat.”



LAS VEGAS VALLEY WATER DISTRICT

1001 South Valley View Boulevard  
Las Vegas, NV 89153  
702-870-2011 • lvvwd.com

9/13/24 3:36 PM 0 0009257 20241122 VKA0B103 LVVWD | cc: DOM VKA0B10000\* 166157LV



MATHERLY, MARGARET A  
MATHERLY, JERRY E  
10629 SHOALHAVEN DR  
LAS VEGAS, NV 89134-7106



November 21, 2024

**RE: WATER WASTE WARNING NOTICE  
YOUR PROPERTY AT: 10629 SHOALHAVEN DR**

Dear LVVWD Customer,

Today’s metering technology allows us to analyze water usage patterns. A review of your property’s water consumption conducted this month strongly suggests that your landscape is being watered more days than permitted under the mandatory seasonal watering restrictions. If you have already changed your watering clock or there is another known cause, such as filling a pool, please disregard this notification.

Your usage pattern indicates that you are:

- Watering more than your 1 assigned day in WINTER is water waste. Overwatering can harm your trees and plants. Follow these tips:
  - **Sprinklers:** Water your grass for a recommended 12-minute total (3 four-minute cycles) per watering day.
  - **Drip:** Water your plants and trees every 7-14 days, but for a longer duration, depending on the flow of your emitters. Get tips at [snwa.com](http://snwa.com).

Failing to adhere to the **mandatory watering restrictions** can result in costly fines that range from \$80 up to \$5,000 for repeat violations. This courtesy reminder is intended to help prevent that from happening. **Please change your watering clock immediately.** To find your watering day visit [SNWA.com](http://SNWA.com).

Even if a landscaper maintains your irrigation system, you are still responsible for following the **mandatory watering restrictions**.

If you do not have a sprinkler or high-volume drip irrigation system on your property, the metered water use identified could be representative of a leak, malfunction, pool refill or other high-water use activity.

Due to ongoing drought, climate change and low water levels at Lake Mead—the source of 90 percent of our water supply—the community’s water allocation has been reduced by more than 8 billion gallons and additional reductions are expected in the future.

**Reducing outdoor water use NOW has never been more important, and it’s the best way to conserve water in Southern Nevada.** This is because all the water we use indoors is captured, recycled, highly treated, and returned to Lake Mead, which extends our water supply. However, all the water used outdoors is gone forever.

The single largest water use in our community is residential landscape irrigation. When every property in Southern Nevada follows the seasonal watering restrictions year-round, our community saves billions of gallons of water annually. In fact, the average homeowner can save more than \$300 per year by simply changing their watering clock each season. We appreciate your support of our community’s conservation initiatives. If you have questions about how to set your watering clock or need helpful tips to identify a leak, visit [lvvwd.com](http://lvvwd.com). *Para obtener esta información en español, llame al (702) 870-4194.*



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