

## THE UPPER BASIN IS WATCHING

**Eric Kuhn, General Manager, Colorado River District**

The Colorado River Compact of 1922 is best understood as a social or political contract among groups, each with its own interests, that allowed development of the river, said Eric Kuhn, General Manager of the Colorado River Water Conservation District.

Today, with scarcity and not abundance as a driver, new contracts are needed.

“Like 100 years ago, we need a political or social contract, but it must be between agriculture and municipal, not between basins,” he said. “Municipal entities seek certainty, which they are entitled to, because that is their fundamental purpose. They need to do it in a way that fundamentally protects and preserves what we have in western Colorado and the upper basin states.

Solutions that protect water uses in both the upper and lower basins from the uncertainty of curtailments are needed. “We will have to go to the table, with real discussions and with real facts, and not expectations or mythology that began 100 years ago.”

Ironically, the roots of the [Colorado River Compact](#) are to be found in an obscure valley along the northern Front Range of Colorado. The Laramie River originates in Colorado and flows into Wyoming. Based on a U.S. Supreme Court case that ruled [Prior Appropriation](#) applies among states, Wyoming was going to get the water that irrigators around Fort Collins had been coveting. [Delph Carpenter](#), a water attorney for the irrigators, realized the implications of Colorado River uses being apportioned based on prior appropriation: California and Arizona would develop the water quickly, leaving Colorado and other upper basin states wanting as they developed more slowly. He was prescient.

In negotiations, Colorado and other upper-basin states wanted to preserve entitlements, California and Arizona wanted flood protection and Los Angeles very specifically wanted the electricity that could be produced by a giant dam, which later became [Hoover Dam](#).

That compact has been flexible enough to meet the needs of the seven states despite a faulty premise: it assumes more water flows than has actually occurred for much of the last century. But if a drought similar to that of that 1950s were to occur now, Lake Powell would probably have to be drained. To avoid that, a broad effort has already been mounted to explore how water from farms can be shared cities, with reimbursement to farmers.

In Colorado, but also other states, most of the senior water rights are held by farmers and ranchers. In Colorado, most of the giant transfers of water across the Continental Divide to both cities and farmers on the Platte and Arkansas basins occurred after the 1922 Colorado River Compact. Simply put, in extended drought, those diversions to Denver, Fort Collins, Colorado Springs and other cities would have to be curtailed while water could continue to be used for growing hay.

Efforts began several years ago, funded by [Denver Water](#) and other major water providers, including the Bureau of Reclamation, to explore both the mechanism and the effects of those transfers. Cities need certainty, he said, but the rural upper basin cannot be their sacrifice zone.

“New transmountain diversions are not the big issue I’m concerned about,” he said. “The big issue is how we can preserve certainty for existing users and do it in a way that we don’t get into a big fight between rural and urban in the upper basin.”