

The Risk of LPP's Junior Water Right Status

Jane Whalen - CSU Board Member

Utah estimates it has 361,000 acre feet unused from its remaining share of 1.369 million acre feet yearly (MAFY) of the Colorado River and can use 86,249 acre feet for the Lake Powell Pipeline (LPP). But, relying on this remaining share carries risk; it may be only a paper water right. The water may not be physically in the river system due to: increased use, reduced storms, snow pack and stream flows from rising temperatures, over allocation, junior in priority of other water rights, such as the Central Utah Project, including the unsettled Federal Reserve water rights claims of the Indian Tribes. As water supplies continue to decline, junior water right holders are at risk of being shut off.

The Bureau of Reclamation (BOR) has well-documented that there is more water allocated to users of the Colorado River than the river produces annually, even without considering a warming climate. The outflows from Lake Powell to Lake Mead continue to exceed inflows. This over allocation is draining the reservoirs faster than anyone predicted. The Colorado River has reached its limit, yet plans are underway to take more water for the LPP.

Utah's share of the Colorado River is a percentage; 23% of the Upper Basin (Utah, Wyoming, Colorado, New Mexico) allocation. It is not a fixed amount like the Lower Basin states have. The Upper Basin States are currently dividing 6 (MAFY). This is using a 100 year average with annual flow of 15 MAFY in hydrological modeling. They use modeling to determine the water supply. Therefore, Utah can use about 1.369 MAFY. But, scientific studies have shown the water supply from the river has decreased over the last 100 years by 16.5%..(HERE <https://agupubs.onlinelibrary.wiley.com/doi/10.1029/2018WR023153> The average is now estimated to be about 12.5 MAFY and predicted to further decrease. Yet, proponents of the LPP refuse to use these declining flows in modeling to forecast water availability for the LPP.

We were stunned to find out after all these years of study and money that the water rights for LPP are still in question. Utah has recently asked the BOR for water out of Flaming Gorge reservoir in exchange for water for the endangered fish in the Green River. We question that Utah has any water to trade with the BOR. We have requested records from Utah six months ago to try to validate that Utah has the water rights for the LPP. We are still waiting for their response.

Considering these risks, the logic of building the LPP now, spending billions with huge interest payments, does not make economic sense. With local cheaper alternatives, we can pay for the cost as needed as the population grows. It will support, not undermine, long-term economic growth. It is time to take better water conservation planning more seriously and not keep putting it off.

See article that explains Utah's paper water rights.

<https://www.pbs.org/newshour/science/will-the-wests-great-river-run-dry>

A Tribune article about that Lake Powell could become a 'dead pool' as climate change, political wars and unabated growth drain its waters – See at:

<https://www.sltrib.com/news/environment/2019/01/20/lake-powell-could-become/>

Also: the Executive Water Finance Board September 17, 2018 stated that the LPP cost is a burden on the state.

“Although the Lake Powell Pipeline Act calls for a “reasonable interest rate,” a recent financing summary submitted by the Washington County Water Conservancy District would create a large state taxpayer subsidy (range of \$1 billion). The proposed taxpayer subsidy comes primarily from repaying the loan over a long time period with devalued future dollars.”

See their information at : <https://www.utah.gov/pmn/files/444007.pdf>