Reasonable Use Requirements for Colorado River Lower Basin Water Deliveries: Natural Resources Defense Council Petition to the Secretary of Interior Requesting Enforcement



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

05/19/2025

The Natural Resources Defense Council and Waterkeepers (collectively, "NRDC") submitted on May 6th a document to the United States Department of Interior ("DOI") styled:

Petition to the Secretary of Interior to Enforce Reasonable Use Requirements for Colorado River Lower Basin Water Deliveries by Issuing Guidance in the Reclamation Manual ("Petition").

The Petition argues that the Colorado River has been :

…overallocated and "prolonged drought and low runoff conditions accelerated by climate change have led to historically low water levels," "threatening water deliveries and power production" for residents across seven states.

The organizations state that there is a need to reform the "delivery process" and use of Colorado River water. As examples of the stated need, they cite:

- Lake Powell and Lake Mead have fallen to 32% and 36% of their capacity.
- A crisis in reliability of water supplies will worsen "if nothing is done to ensure that Colorado River water (especially in the Lower Basin) is not wasted".

NRDC requests that the United States Department of Interior Bureau of Reclamation ("Bureau") exercise its authority to:

…ensure that all of the Bureau's water deliveries to Colorado River Lower Basin users are reasonably required for beneficial uses and not delivered for uses that are unreasonable.

The requested method for the Bureau to do so is by issuing guidance in its Reclamation Manual. The Bureau is stated to have the "authority and duty" to limit its water deliveries to prevent unreasonable uses of water. See Part 417 of the Code of Federal Regulations, which is stated to impose an obligation on the Bureau to:

…ensure that Colorado River water deliveries to Lower Basin users do not surpass what is "reasonably required for beneficial use" per 43 CFR § 417.2, and to follow the annual consultation process outlined in 43 CRR § 417.3 when approving water delivery request, including its requirement that the Bureau's water delivery decisions "shall… be based" on factors related to the reasonable use and conservation of water.

The organizations argue that the Bureau is not currently exercising such authority in “meaningful ways”. Their concern is stated to be what is described as the “Bureau’s approach” which is stated to not adequately access water usage to the extent necessary to prevent waste. They claim that the Bureau provides whatever amount of waters requested by contractors so long as that amount falls within a water user’s contractual allotments and:

…is expected to be available within the following calendar year without seriously assessing wastefulness and without articulating any conditions to ensure the reasonable use of all water delivered.

This process is stated to fail to incentivize reductions in unnecessary use or improvements in efficiency.

Arguments in the Petition include:

- The Bureau has the authority and mandate under the Boulder Canyon Project Act and 43 CFR Part 417 to avoid the waste and unreasonable use of water delivered to Colorado River Lower Basin users.
- The Bureau is failing to meet its duty to effectively prevent wasteful and unreasonable water use under 43 CFR Part 417.
- The Bureau must revise its Lower Basin water delivery process to prevent unreasonable uses of water.

A copy of the Petition can be downloaded here.