



Drew Peternell, Colorado State Director

November 6, 2023

Colorado River Drought Task Force
c/o Ms. Kathy Chandler-Henry, Chair
Via Electronic Mail: kathy.chandlerhenry@eaglecounty.us

Dear Colorado River Drought Task Force Members,

Trout Unlimited (“TU”) wishes to thank each of you for your service to the Colorado River Drought Task Force. As drought has persisted now in the Colorado River basin for over twenty years and water availability in the basin continues to decline, your charge under Senate Bill 23-295 to make recommendations for state legislation on programs to address the drought is critically important.

As many of you know, TU is the nation’s leading cold-water fisheries conservation organization, with over 300,000 members and supporters nationwide. In Colorado, TU has 12,000 members, 22 chapters, and approximately 30 staff, all working to protect and restore Colorado’s rives and streams and the cold-water fish populations that they sustain.

TU is deeply interested in the health of the Colorado River and its many tributaries, and we have worked for many years to explore solutions to bring water supply and water demand back into balance on the Colorado River system while also benefitting cold-water fish populations. We have worked with numerous partners in the agricultural community to develop voluntary, temporary, and compensated water use forbearance leases under the System Conservation Pilot Program and the related demand management program. Likewise, TU has been involved in policy-level discussions of Colorado River system conservation and drought security. TU believes that voluntary, temporary, and compensated water conservation will be a critical piece of creating security for Colorado River water users in the face of drought and restoring the ecological health of the Colorado River system.

TU has been following the discussions at the Colorado River Drought Task Force (the “Task Force”) over the past several months, and we are aware of several proposals currently before you. We think that these proposals are worthy of consideration and discussion. We are particularly intrigued by the proposal presented by Aaron Citron for shepherding with environmental benefits, possibly including an expansion of the statutory definition of beneficial use to include drought security, water conservation, or some similar concept.

Trout Unlimited: America’s Leading Coldwater Fisheries Conservation Organization
Post Office Box 770450, Steamboat Springs, Colorado 80477
(303) 204-3057 • drew.peternell@tu.org • www.tu.org

While we believe that the proposals before you are worthy of attention, TU would like to recommend that the Task Force also consider a broader approach, that being a recommendation to the General Assembly to establish a comprehensive drought security pilot program. Such a pilot program would include shepherding of conserved water with environmental benefits and would define drought security as a beneficial use, per Mr. Citron's recommendation. But, a pilot program could also be broader, including other elements as well. Specifically, a comprehensive drought security pilot program should include:

- an overt requirement that all water conservation measures taken under the program be temporary, voluntary, and compensated;
- more complete protections against abandonment and loss of consumptive use credit for participating water rights than exist in current law;
- an opportunity for the Division of Water Resources to review water conservation measures for injury to other water rights and a requirement that conservation measures that do result in injury be excluded from the program;
- an opportunity for the Colorado Water Conservation Board or another appropriate entity to review water conservation measures under anti-speculation and anti-export principles and a requirement that conservation practices that run afoul of anti-speculation or anti-export principles be excluded from the program;
- mechanisms to assure local support for water conservation measures included in the program; and
- requirements to measure and account for conserved water.

TU believes that a comprehensive pilot program, including the elements outlined above, would result in greater water conservation and would provide a better opportunity to test and evaluate drought security concepts than any of the proposals currently before you. While each of the proposals offers some promise in advancing drought security, the proposals only address discrete elements of the larger drought picture in the Colorado River system. A comprehensive drought security pilot program would allow Colorado to do more and learn more.

TU also believes that a formal drought security pilot program would aid the State of Colorado in its discussion with other Colorado River basin states. With a formal drought security program in place, even if only on a pilot basis, Colorado would be seen as the leader amongst the seven basin states in the effort to find solutions to drought related problems. Colorado would be in a strong position to demand that water conserved here be allowed to pass through Utah to Lake Powell for Colorado's credit and to demand that the other basin states implement their own water conservation measures. In this context, TU understands that it is critically important that the lower basin states make permanent water use reductions, and we believe Colorado will be better positioned to call for such reductions if water users here are also implementing conservation measures.

With the Colorado River basin drought now extending into its third decade and with worsening water availability conditions likely in the future, now is the time for proactive and bold solutions. I urge you to act accordingly.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Peternell", with a stylized flourish at the end.

Drew Peternell