

Energy Transition Water Planning Horizon & Colorado River Drought Assistance Opportunity

Background

During Colorado's 2023 legislative session, Senate Bill 23-295 passed the state legislature with near-unanimous support in both the House and Senate and was signed by Governor Polis on May 20, 2023, officially creating the [Colorado River Drought Task Force](#). The purpose of the 17-member Task Force is to provide recommendations to the Colorado legislature for programs to assist Colorado in addressing: (i) drought in the Colorado River Basin; and (ii) Colorado's interstate commitments related to the Colorado River and its tributaries.

In 2019 and subsequent years, the Colorado General Assembly passed carbon dioxide emissions reduction legislation. (e.g., § 25-7-105, C.R.S. (HB 19-1261); §40-2-125.5, C.R.S. (SB 19-236)).; That legislation presently mandates an 80% reduction to carbon dioxide emissions by the electric utility sector by 2030 and a 100% reduction in statewide greenhouse gas emissions by 2050.

Concept

Electric Utilities affected by HB 19-1261 and SB 19-236, as well as supporting extractive industries (e.g. coal mines) propose to: (1) temporarily enact appropriate water rights planning horizons, similar to those available to municipalities, in order to maintain their portfolio of water rights at least through the energy transition planning period (2050), so that those water rights may be available to support development of clean energy generation; and (2) the portfolio of water rights can be used during the transition in a manner that supports the State of Colorado's drought response initiatives.

Method

- (1) Modify definitions in the 1969 Water Right Determination and Administration Act to provide water rights protection and planning flexibility for electric utilities and supporting extractive industries, which modifications would sunset in 2050.
- (2) Add language to § 37-83-105(2)(a)(IV)(A), C.R.S. (sunsetting in 2050) stating that:
 - a. Renewable loans from electric utilities and supporting industries of absolute water rights, approved to preserve or improve the natural environment to a reasonable degree, can be used ten out of ten years through 2050 (with approval of State Engineer for every 5-year period).
 - b. There is a determination that a temporary instream flow lease is in the normal course of business and is not subject to Public Utility Commission approval.

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