



CARPE DIEM WEST
Our water – Finding solutions together

GOVERNING LIKE A RIVER BASIN

OPTIONS FOR EXPANDED STAKEHOLDER ENGAGEMENT IN THE COLORADO RIVER BASIN

A Carpe Diem West Policy Brief

In partnership with the
Center for Natural Resources & Environmental Policy,
University of Montana

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I. WHY THIS REPORT? *BROADER STAKEHOLDER PARTICIPATION—A MEANS TO AN END*

The Colorado River Basin faces profound long-term water management challenges. Annual water demand now roughly equals annual supply, and climate change is expected to make the basin much warmer—thereby reducing water yields. The system is vast and complex, including thousands of miles of streams, reservoirs, canals, pipelines, and other infrastructure spanning 7 U.S. and 2 Mexican states. To further complicate matters, the basin includes an array of state, federal, and local jurisdictions—as well as numerous non-governmental stakeholder groups—and a host of competing interests. As the conversation in the basin shifts to the search for lasting solutions, providing basin-wide leadership to coordinate these competing factions has emerged as a particularly challenging task. There is no obvious source for the substantial funding that long-term solutions will require, and any such solutions could be subject to lengthy and contentious litigation by a variety of parties.

The Colorado Basin states and the federal government took an initial step toward addressing these challenges in the negotiations that produced the 2007 Colorado River Accord. In that process, the parties agreed on a set of rules for managing the river under low flow conditions, and for “banking” a limited quantity of water as a hedge against future shortages. In addition, the parties were able, through an informal consultation process, to tailor their final agreement to meet the concerns of certain environmental stakeholders who had a strong interest in the outcome of the negotiations, but lacked a formal seat at the table. But while the 2007 Accord is justifiably heralded as an accomplishment in addressing basin-scale challenges and involving non-governmental stakeholders, it provides at best a glimpse of the sustained effort that will be necessary to address the basin’s long-term water problems in an era of climate change.

The Colorado is far from the only large U.S. river basin facing challenges of this scale and complexity. In other such basins, collaborative initiatives that engage a broad range of stakeholders in management decisions have proved to be a valuable tool. Importantly, leaders have adopted these processes not only in the interest of being fair and equitable, but also because of the tangible benefits they can produce for all sides. For example, collaborative initiatives can:

- ▶ Resolve conflicts before they lead to litigation;
- ▶ Broaden public support for controversial solutions such as water infrastructure; and
- ▶ Help secure federal and state funding to implement solutions.

While the Colorado basin has a number of stakeholder collaboratives operating at a more local level, it has no existing process capable of producing these kinds of benefits on a basinwide scale.

Virtually every Colorado Basin leader interviewed for the recent Carpe Diem West report *Thinking Like a River Basin: Leaders' Perspectives on Options and Opportunities in Colorado River Management* recognized that a broader range of stakeholders wish to be more meaningfully engaged in river management discussions than current processes allow. Of course, not all agreed that broader engagement was feasible or desirable. But while it was clear these leaders understood the potential pitfalls of stakeholder engagement, it was less clear they were familiar with the practical benefits stakeholder processes can offer.

Carpe Diem West's leadership developed the current policy brief, *Governing Like a River Basin*, to provide the Colorado Basin water community with a look at the stakeholder engagement models in some other river basins and a discussion as to what those models might look like in the unique context of the Colorado River. This discussion is particularly relevant at a time when the Bureau of Reclamation's Basin Study is analyzing long-term solution sets for the Colorado. Devising comprehensive and effective solutions requires some kind of stakeholder participation. Moreover, few of these solutions could be implemented without broad public support and funding—precisely the kind of benefits that stakeholder models have helped produce elsewhere.

In short, there are ample reasons to consider broadening stakeholder involvement in Colorado River water decisions, despite the inevitable costs that come with such processes. What is needed is a thoughtful conversation about what kind of processes might be best suited to the particular challenges facing the Colorado Basin. The goal of this policy brief is to help start that conversation.

– The Carpe Diem West Team

“*Though contentiousness over the Colorado River has only grown more complex, there is no regular means to work out differences, let alone to cooperate in the management of such an important natural resource. Isn't it time to bring the states and other interests together around the same table to avoid and solve problems important to all of them?*”

David H. Getches, keynote address at Colorado River Conference
Denver, Colorado, July 20, 1992

The Colorado River supplies water to over 33 million residents in seven states and northwestern Mexico, as well as to agriculture, industry, and ecosystems.

Over the past century, human use on the river has steadily grown to the point where annual demand now equals the entire annual flow of the river. At the same time, Bureau of Reclamation projections indicate that climate change will decrease the river's flow by 9% in the next 50 years. Other climate models predict that flow could drop by as much as 30% over a similar period.

In other words, the Colorado River Basin suffers from a long-term imbalance in supply and demand.

II. HIGHLIGHTS OF THIS POLICY BRIEF

This policy brief presents a compendium of stakeholder engagement models that are currently being used in four U.S. river basins facing complex long-term management challenges, and which could inform development of similar models for stakeholder engagement on the Colorado.

The brief has its genesis in a pair of concerns shared by Colorado River Basin leaders in the recent Carpe Diem West report *Thinking Like a River Basin: Leaders' Perspectives on Options and Opportunities in Colorado River Management*. The first is a generally shared perception that the basin would benefit from additional coordinating leadership to address problems at the basin scale. The second is a near-universal acknowledgement that a broader range of stakeholders wish to be more meaningfully engaged in river management discussions and decision processes than is currently allowed. In light of these concerns, it is logical to ask how similar issues are being addressed in other river basins.

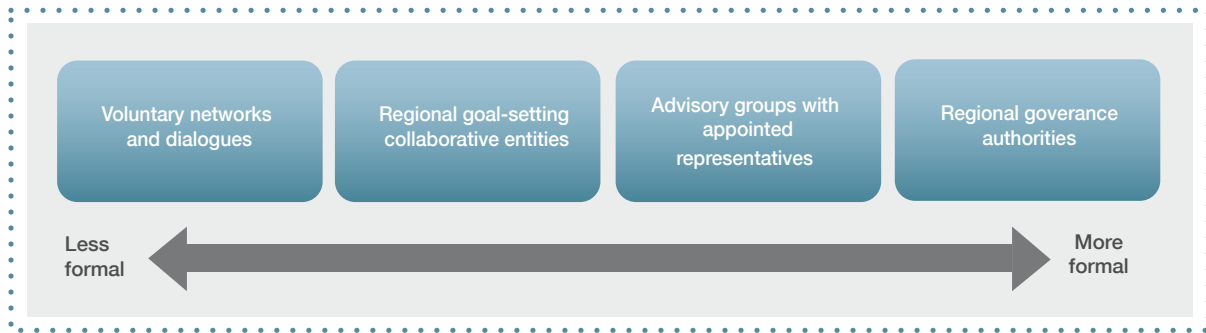
The examples discussed in the following pages demonstrate that collaborative initiatives can reduce conflict among competing interests, avoid litigation, create better-informed decisions, provide a strong base of support for funding solutions, improve chances of successful implementation, and produce environmental gains. They can also be time-consuming, expensive, and frustrating. On balance, the experience of other river basins suggests that while a collaborative process does not guarantee a mutually satisfactory outcome, it makes such an outcome more likely.

The four collaborative models described in this brief illustrate a spectrum of approaches that could further facilitate leadership and engage stakeholders in the Colorado River Basin. Those options, listed in ascending order from the least formal to the most structured models, are as follows:

- ▶ **Voluntary networks and linked dialogues** are convened by stakeholders rather than government officials. They provide regular or ad hoc opportunities for stakeholder input and dialogue with public resource managers and/or elected officials—a sort of “parallel process” of public consultation. For example, a *Colorado River Basin Consortium* might provide a regular and useful means of stakeholder input and informal dialogue with decision makers, an alternative to the “guerilla consultation” that takes place when certain stakeholders find the means of providing input but many do not.
- ▶ **Regional goal-setting collaborative entities** offer a forum for government agencies, elected officials, and stakeholders to develop and articulate shared goals that extend beyond their individual areas of jurisdiction, which they pledge to support but are not legally bound to implement. Something like a *Colorado River Basin Forum* could engage all levels of government agencies, elected officials, and stakeholders to develop and articulate shared goals for the basin (perhaps in a Colorado River Basin Charter), and to seek implementation through their various areas of influence and jurisdiction.

- **Advisory groups with appointed stakeholder representatives** formally recognize representatives of diverse stakeholder groups and other entities and provide structured opportunities for them to discuss and provide guidance into ongoing public resource decision processes. A *Colorado River Basin Advisory Council* would respond to those who wish to see a more formal seat at the table for interests affected by but not formally recognized in current decisions. An advisory council could tackle discrete questions, hashing out collaborative solutions for state and federal decision makers to consider.
- **Regional governance authorities** acquire some level of formal, binding decision making authority through the mutual agreement of participating governments, such as an interstate compact, and typically commit to a high degree of stakeholder involvement and consultation. Such a basin-wide organization would be a forum for discussion, debate, and even battles over river management—providing an alternative forum for solving problems before resorting to litigation. The organization might also develop and distribute credible information, a sustained version of what the Bureau of Reclamation’s Colorado River Basin Water Supply and Demand Study (“the Basin Study”) is accomplishing now.

Collaborative stakeholder engagement models, from least formal to most formal.



III. WHY CONSIDER EXPANDING STAKEHOLDER ENGAGEMENT?

“It is a fair criticism that states have left others out of [Colorado River management] decisions until the end.

“We need some way to balance or blend the value of inclusive participation . . . and making efficient decisions.”

-Two views expressed by Colorado Basin leaders in the Carpe Diem West report *Thinking Like a River Basin: Leaders' Perspectives on Options and Opportunities in Colorado River Management*

The Colorado River Basin faces a complex set of water management challenges over the coming decades. Competition for the river's limited flows is already intense, and is expected to increase with climate change. Water management decisions are made according to a complex web of federal and state laws, interstate compacts, court decisions, and treaties, and involve an array of legal jurisdictions across seven U.S. states and the Republic of Mexico. These decisions affect a wide range of stakeholders who lack formal representation in decision making processes, but have the ability to affect them through indirect means such as litigation and political organizing.

The complexity of these challenges has led to increasing calls for a new level of public engagement at the basin scale. These concerns are reflected in the April 2011 Carpe Diem West report *Thinking Like a River Basin: Leaders' Perspectives on Options and Opportunities in Colorado River Management*, which revealed two governance-related themes in the opinions of Colorado Basin water leaders. First, leaders on all sides expressed a belief that the basin would benefit from additional coordinating leadership to address problems that extend to the basin-wide scale. Second, an equally wide range of leaders acknowledged that a broader range of stakeholders wish to be more meaningfully engaged in river management discussions and decision processes than is currently allowed—although some questioned whether this could be done without unduly complicating the decision making process.

The two broad issues identified by leaders—a need for more coordination to help leaders to do their work effectively across the whole river basin, and the pressure for broader stakeholder involvement—are related, and this relationship is heightened by the effects of climate change. As warmer, drier conditions and decreased river flows become more prevalent across the seven-state area of the Colorado Basin, the need to resolve competing demands across such a vast area makes it increasingly necessary to coordinate water management at the basin scale. Moreover, experience suggests that many of the elements necessary to implement basin-scale management—things like water storage and delivery infrastructure, ecosystem restoration, and more flexible and adaptive management regimes—may be developed, funded, and implemented much more quickly and effectively when a fuller range of stakeholders is involved.

This policy brief focuses primarily on the second of these issues—the rising interest in expanded broader stakeholder engagement. Drawing on models that have been employed in four other river basins, it identifies and briefly analyzes a range of options that have proven to be effective tools in addressing complex management challenges like those facing the Colorado. Where appropriate, the analysis of these options also touches upon the first issue, a desire for more coordination among leaders throughout the basin.

These examples show that efforts to address broad and complex environmental challenges are seldom successful if tackled by a single entity—even a powerful federal agency fortified by the rule of law—unless it engages meaningfully with others who are affected by the problem and have a stake in the outcome.

Collaborative initiatives—defined as processes that are inclusive, informed, and deliberative—emerge to fill gaps in governance. Such gaps are situations in which no single entity has the full range of legal authority and political capital necessary to address difficult boundary-crossing issues. Parties participate in such an initiative for the very practical reason that it often leads to better decisions with greater likelihood of implementation than more traditional approaches (notice-and-comment rulemaking, litigation, etc.). More specifically, a collaborative initiative with broad stakeholder engagement can result in:

Reduced conflict among competing interests

- Collaborative initiatives provide a means to involve stakeholders at an early stage, and to engage in a sustained exploration of their values and concerns through interactive processes. This can be a much more effective way to resolve competing concerns than more traditional methods such as public comment or litigation.

Better-informed decisions

- Collaborative initiatives give decision makers access to information sources that otherwise might not be available or easily accessible, including experts working for other agencies, databases or models maintained by NGOs, emerging scholarship from academic institutions, and practical experience of individual stakeholders.
- All participants benefit from the ability to share information and learning through a more open and inclusive decision process, which can lead to fewer interagency and public misunderstandings and broader public education about the scope of the problems. In some cases, collaborative initiatives engage stakeholders through joint fact-finding processes, a mutual learning exercise that can lead to better agreement about the facts underlying scientific uncertainty.

Better chances of successful implementation

- Participants who share in the development of a management plan tend to develop a sense of ownership, built from trust and common effort. They are more likely to support the plan through the sometimes-stormy public review phase, and less likely to resort to litigation.

- Participants also share responsibility for implementation, with defined responsibilities and regular communication. Federal agencies are able to share workforce resources with state and tribal agencies, local watershed groups, and NGOs, thus leveraging resources to get more done.
- Where implementation requires action from political bodies—such as funding for infrastructure or amendments to laws that constrain water management—the support of a broad spectrum of stakeholders can be a powerful tool for persuading elected officials to take the necessary actions.
- During implementation, collaborative initiatives can be a highly effective tool for adaptive management. They enable learning through monitoring for specific indicators of success, followed by adjustments in management practices to adapt to unexpected outcomes. The practice of adaptive management is well supported by a foundation of shared information and regular communication among participants in a collaborative initiative.

By producing benefits like these, a well-designed stakeholder process can be an effective means of closing the kind of governance gaps discussed above. But it would be a mistake to view such a process as simply a matter of applying scientific or technical knowledge to a set of economic, social, or environmental concerns, or as nothing more than a means of managing resources more effectively and efficiently. At their core, stakeholder processes are a means of resolving sociopolitical challenges. Their goal is to integrate the interests of multiple jurisdictions, government agencies, and public and private stakeholders, and thereby to address complex regional issues.

There is also no guarantee that broad-based collaborative initiative will achieve success in resource management goals such as ecosystem restoration or water supply security. One need only look at the ongoing challenges in the California Bay-Delta to see the many ways that genuinely good intentions for broad engagement can be sidetracked by wicked political conflicts joined with deeply conflicting resource management goals in a challenging physical environment. Even in such cases, however, collaborative initiatives likely provide a more effective means of integrating the diverse social, economic, and environmental values that define natural resource issues than more conventional approaches to decision making.

In short, there is no simple formula for addressing the many sources of competition and conflict in the Colorado River Basin, but it would be timely to consider options for engaging stakeholders in a more inclusive, basin-wide approach to Colorado River planning and management decisions. Experience with such initiatives throughout the country suggests such an approach would benefit the people and resources of the basin and respond to the concerns expressed by leaders and others affected by their decisions.

IV. EXAMPLES OF COLLABORATIVE INITIATIVES IN OTHER U.S. RIVER BASINS

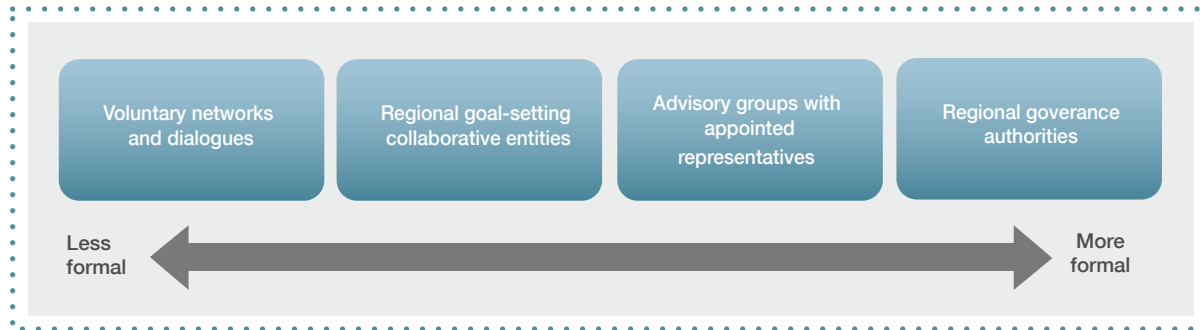
Over the past several decades, the number of regional collaborative initiatives has grown dramatically. Ranging from local watershed-focused restoration projects to large, interstate river basin governance bodies, these examples underscore that there is no single “ideal” model for coordinating management and engaging stakeholders across a large physical and political landscape in a meaningful way.

The examples featured here include regional, river basin-focused collaborative initiatives involving federal agencies, states, tribes, non-governmental organizations, and local governments. All emphasize opportunities for a variety of stakeholders to participate in substantive discussions, though the levels of formal involvement vary considerably. All have resulted in higher visibility for the river basin and its issues, and in some cases this visibility has translated to broader financial and political support for the coordinated work of leaders and stakeholders working to address river management issues.

As illustrated below, the following examples present a spectrum of possible approaches, ranging from informal groups of interested parties to formal commissions with decision making authority:

1. **Voluntary networks and linked dialogues** provide regular or ad hoc opportunities for stakeholder input and dialogue with public resource managers and/or elected officials, without being convened by government officials—a sort of “parallel process” of public consultation.
Example: Universities Consortium on Columbia River Governance
2. **Regional goal-setting collaborative entities** offer a forum for government agencies, elected officials, and stakeholders to develop and articulate shared goals that extend beyond their individual areas of jurisdiction, which they sign a pledge to support but are not legally bound to implement.
Example: Ecosystem Charter for the Great Lakes-St. Lawrence Basin
3. **Advisory groups with appointed stakeholder representatives** formally recognize representatives of diverse stakeholder groups and other entities and provide structured opportunities for them to discuss and provide guidance to ongoing public resource decision processes.
Example: Missouri River Recovery Implementation Committee
4. **Regional governance authorities** acquire some level of formal, binding decision making authority through the mutual agreement of participating governments, such as an interstate compact, and typically commit to a high degree of stakeholder involvement and consultation.
Example: Northwest Power and Conservation Council

Collaborative stakeholder engagement models, from least formal to most formal.



Although these approaches vary widely in terms of structure and approach, all of them raise some threshold design questions:

- Who participates—will the process be open only to certain individuals representing selected interests, or can anyone be involved?
- What are the purpose and expected outcomes of the process?
- How is the agenda set?
- What information is brought to the table, and how is it related to formal decision making and implementing systems?
- What are the transaction costs associated with one option over the other?
- To what extent are agreements reached by the group binding upon participants (a key element that determines how much incentive there is for people and organizations to participate)?

These questions should be considered in fine-tuning any chosen approach to engaging stakeholders through a collaborative initiative.

In the following pages, examples of each of the above four models are described in more detail.

UNIVERSITIES CONSORTIUM ON COLUMBIA RIVER GOVERNANCE

Informal network provides “parallel process” to support and inform cross-border treaty discussions.

Summary: A 1964 treaty between the U.S. and Canada governs joint international operation of the Columbia River for the purposes of hydropower production and flood control. Certain of the flood control provisions expire in 2024, and either country must provide ten years’ notice (by 2014) should it seek to terminate the treaty. A variety of official and informal efforts are underway to understand and predict climate and other changes within the basin and to determine whether those changes warrant modification of the treaty. The government entities engaged in dam operation and thus directly involved in the treaty discussions include Bonneville Power, BC Hydro, and the U.S. Army Corps of Engineers. Recognizing the need for a regional dialogue involving tribes, stakeholders, government, and researchers throughout the basin, public universities in each state and province in the basin joined together in 2008 to offer a neutral, inclusive forum to help support this conversation. The Universities Consortium on Columbia Basin Governance includes the University of British Columbia, the University of Idaho, the University of Montana, Oregon State University, and the University of Washington. The Consortium has initiated a series of annual symposia to help inform the process and determine some of the scenarios and outcomes that might influence Columbia River Basin decisions:

- The 2009 symposium explored how to design and implement governance of international watercourses in face of uncertainty.
- The 2010 symposium addressed needs and benefits, participatory processes, and transboundary governance mechanisms.
- The 2011 symposium focused on a transboundary group discussion of alternative scenarios for the Columbia River Treaty and related questions and considerations for treaty discussions.

Participants: The Consortium includes representatives of each of the participating universities. The symposium steering committee includes representatives from the universities, the Columbia Basin Trust (CBT), the Northwest Power & Conservation Council (NPCC), the government entities involved in dam operations and treaty discussions, and the First Nations/Tribes on both sides of the border. Symposium participants include all of these parties and a broad range of stakeholders, NGOs, and academics.

Financial Support: There is no sustained central source of support for this consortium. The CBT and the NPCC each provide approximately \$10,000 in support for the annual symposia, as well as many hours of in-kind professional services. Consortium members work with their own universities’ funding sources to participate in the symposia and related discussions.

Accomplishments: The symposia have been well-attended and by all accounts are providing a valuable supplement to the formal discussions underway among government entities and sovereigns, providing a sort of “parallel process” that opens the door to a wider range of stakeholders who otherwise would not

have a seat at the table. In addition, since the Consortium is university-based, there is a practical educational component as well. In preparation for the 2011 symposium, students at many of the universities represented in the consortium, under the direction of the faculty representatives, provided information to support a set of scenarios for where the region, the entities, and the nation might take the treaty. The students also helped develop and analyze a set of associated questions, such as what can be accomplished without requiring a formal treaty process and what possibilities exist for widening public participation.

Challenges: As a relatively informal network, there is no single coordinator or institutional home for the Consortium. Participating members provide their own financial support, and resources for the annual symposia are limited. Coordination of separate academic institutions has proven challenging, and students' evaluations of scenario options are not particularly well-informed. Nonetheless, this forum is proving a useful alternative to the formal institutional gatherings, and is providing valuable alternative opportunities for parties to explore each others' interests and options for solutions.

Information: www.uidaho.edu/law/newsandevents/columbiarivergovernance/Background



ECOSYSTEM CHARTER FOR THE GREAT LAKES-ST. LAWRENCE BASIN

Diverse parties sign pledge to support a common vision for the world's largest freshwater ecosystem.

Summary: Tensions over shared boundary waters between the United States and Canada, and especially the Great Lakes, have prompted a number of significant negotiated inter-governmental agreements, from the 1909 Boundary Waters Treaty to the 2008 Great Lakes-St. Lawrence River Basin Water Resources Compact.

“Meaningful public participation requires the public to be an active partner in the decision making process, including the identification and assessment of issues.”
- Ecosystem Charter Principle XVII

Over the years, the Great Basin states (through the Council of Great Lakes Governors) and the two nations (through the Great Lakes Commission and the International Joint Commission) have devised innovative means of coordinating governance and resolving conflicts without litigation. In 1994, this effort broadened to include a wide range of non-governmental entities who joined with diverse government representatives in endorsing the Ecosystem Charter for the Great Lakes-St. Lawrence Basin, pledging to support its principles and work toward a common vision that calls for a clean environment, strong economy, and high quality of life for basin residents. The Charter calls for “cooperative and collaborative relations among [federal, state, provincial, local, and tribal] jurisdictions, in partnership with business and industry, citizen organizations and all other Basin interests,” as well as public processes that ensure “timely, accurate and accessible information; a forum in which to voice concerns; and a mechanism to become involved in policymaking and implementation efforts.” Unlike the Compact and other agreements in place between the nations that share the Great Lakes, this Charter is not legally binding upon its signatories. Nonetheless, those endorsing it are expected to: (1) consider Charter principles as guidance when developing work plans and priorities; (2) communicate and cooperate with one another in pursuing those priorities; and (3) consider the Charter as a means of assessing ongoing work. No signatory is expected to engage in activities beyond its legal mandate in complying with the Charter.

Participants: As of 1995, there were 160 signatories to the Charter, including local conservation districts, NGOs, professional associations, universities, elected officials, and all levels of government agencies. Many provided signatory statements explaining their interests and concerns.

Financial and Political Support: The Charter itself is not the source or target of any funding, but it is part of a large and successful campaign to draw political attention and financial support for diverse efforts to restore and protect the Great Lakes. Each year, partners gather in Washington, D.C., for Great Lakes Day, a collective effort to make the case for continued federal support for restoration efforts and to raise awareness about threats from invasive species.

Accomplishments: As a non-binding agreement, it is not easy to assess the direct benefits of the Charter, but the collective effort to coordinate management and build political and financial support for

Great Lakes issues has clearly been a success. For example, the Great Lakes Legacy Act, signed by President George W. Bush in 2002, provides \$270 million over five years to clean up contaminated sediments from the Great Lakes and to educate people about this issue. In May 2004, President Bush signed an Executive Order creating the Great Lakes Interagency Task Force, under the lead of Environmental Protection Agency (EPA). The Task Force brings together 10 federal agency and Cabinet officers to provide strategic direction on federal Great Lakes policy, priorities and programs. The order directs EPA to work with Chairs of the Council of Great Lakes Governors and the Great Lakes Cities Initiative to convene a complementary "Regional Collaboration of National Significance," and a cabinet-level federal Great Lakes Interagency Task Force.

Challenges: The vast size of this region—95,000 square miles, containing 20 percent of the world's and 95 percent of North America's fresh surface water—means that water resource and ecosystem restoration challenges are large and tough to address. Despite the admirable cooperation evidenced by the Charter and related institutional agreements, the Great Lakes face threats from climate change, growing demands for water withdrawals, and continued threats from pollution and invasive species. Heavy dependence on federal funding makes this region vulnerable to congressional budget battles; at the time this brief is being prepared, Congress is considering deep reductions to the Great Lakes Restoration Initiative's budget from its 2010 level.

Information: www.glc.org/ecochart/



Source of map: [Great Lakes Information Network](http://www.glc.org/ecochart/)

MISSOURI RIVER RECOVERY IMPLEMENTATION COMMITTEE

Broadly representative appointed federal advisory body provides formal input and guidance for ecosystem recovery efforts in the nation's longest river.

Summary: Section 5018 of the Water Resources Development Act of 2007 authorized the U.S. Army Corps of Engineers to establish a broadly representative advisory body to provide guidance to the Corps and affected federal agencies, state agencies, and tribes on a study of the Missouri River and its tributaries to determine the actions required to mitigate losses of aquatic and terrestrial habitat, to recover federally listed species protected under the Endangered Species Act, and to restore the river's ecosystem to prevent further declines among other native species.

"The Committee includes broad stakeholder representation to ensure a comprehensive approach to Missouri River recovery implementation while providing for congressionally authorized Missouri River project purposes and to ensure public values are incorporated into the study and the recovery and mitigation plans."

-MRRIC Fact Sheet

Participants: The 70 appointed members of the Missouri River Recovery Implementation Committee (MRRIC, or "Mr. Ric" in shorthand) include representatives of federal agencies (the Corps and the U.S. Fish & Wildlife Service are the lead agencies), eight states, up to 28 tribes, and 16 stakeholder categories (28 total stakeholder members). In September of 2008, the Corps' Northwest Division made appointments to MRRIC. The group is facilitated and co-chaired by two recognized experts who do not have a stake in the issues being addressed.

Financial and Political Support: Congress allocates funding for the U.S. Army Corps of Engineers' Missouri River Recovery Program (MRRP). The MRRIC is a line-item in the MRRP budget, with a current operating budget of approximately \$1.4 million. Participants report satisfaction with the federal government's financial and substantive commitment to MRRIC.

Accomplishments: As a relatively new entity, MRRIC focused initially on establishing its membership, organizational structure (there are six work groups), and operating procedures. In 2009, the Committee issued its first substantive recommendations to federal agencies, addressing the endangered pallid sturgeon and the purpose and need for the Corps' long-term river restoration plan. MRRIC next turned to establishing a third-party neutral science review program, which will examine discrete science questions that rise in the recovery study process. Additionally, MRRIC is setting up formal liaisons to interact with agency teams working on various aspects of the study process.

Challenges: The authorizing legislation forbids reimbursement of members' travel expenses, which has made it very difficult to ensure participation by sovereign and stakeholder representatives over this large region. MRRIC's consensus decision rule reflects shared values for a common vision, but may prevent

the group from making meaningful recommendations on controversial issues. The process, according to one leader, is frankly “tedious,” due to the numerous meetings and the need to establish procedural guidelines before engaging in substantive work; drafting the group’s charter took 18 months. Finally, the “background noise” of separate processes addressing Missouri River management reminds participants that they are working in a highly charged political context that can be distracting to MRRIC deliberations.

Information: www.mrric.org/



Source of map: MRRIC Fact Sheet

NORTHWEST POWER AND CONSERVATION COUNCIL

Interstate compact agency provides opportunity for states to influence federal actions, with strong emphasis on stakeholder involvement.

Summary: The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (“Northwest Power Act”) authorized the Columbia River Basin states of Idaho, Montana, Oregon, and Washington to form the Pacific Northwest Electric Power and Conservation Planning Council (now known as the Northwest Power and Conservation Council) with two representatives from each state, appointed by the governors. The Council is neither a federal nor state agency; it is an interstate compact agency that has legal authority to adopt plans and programs that guide the actions of federal agencies. Specifically, the Bonneville Power Administration must ensure that its actions are “consistent” with the Council’s plans and programs, and other federal agencies must take the Council’s fish and wildlife program into account “at each relevant stage of decision making processes to the fullest extent practicable.” The Council also makes recommendations on Bonneville’s annual expenditure of fish and wildlife funds, based on advice of an independent scientific panel. All planning for electric resources and fish protection must involve the public, and the Council must seek the recommendations of the region’s tribal, state and federal fish and wildlife agencies in all planning processes.

Participants: Council members are appointed by the governors of the four Columbia River Basin states (two members per state). Although the Council itself lacks formal representation of stakeholder groups and the full range of affected sovereigns, the Council relies on independent scientific review of all fish and wildlife projects proposed for funding, with input from state and tribal agency officials, stakeholder groups, and members of the public. Virtually all business of the Council is conducted in the public eye, with a strong expressed value of broad-based engagement and dialogue.

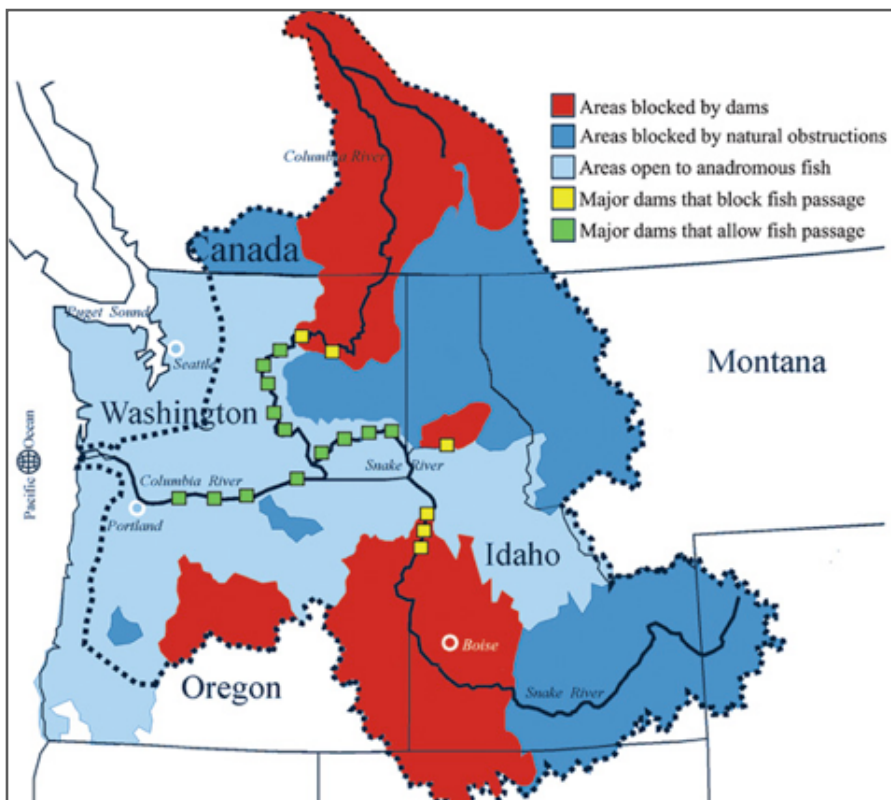
Financial Support: The Council is funded by wholesale power revenues from the Bonneville Power Administration, the federal agency that markets the electricity generated at federal dams on the Columbia River. The Council’s Columbia River Basin Fish and Wildlife Program directs more than \$220 million per year in electricity ratepayer funding to address the impacts of hydropower dams on fish and wildlife from the estuary of the Columbia to its mountain tributaries in the four Pacific Northwest states.

Accomplishments: The Council adopted its first power plan in January 1983 and has revised it five times since then. In February 2009, the Council culminated a 15-month public process by approving a revision of its Columbia River Basin Fish and Wildlife Program, the nation’s largest regional effort to protect and enhance fish and wildlife. Through their participation on the Council, basin states have worked together—and with diverse partners including Indian nations, commercial fishing organizations, recreational groups, power customers, and others—to develop and enforce priorities for power production, energy conservation goals, and fish and wildlife habitat restoration. As described above, the

Council is now engaged as well in discussions concerning the Columbia River Treaty, supporting a bi-national dialogue to complement and inform official negotiations.

Challenges: Although the funding mechanism for the Council was innovative in 1980 (based on forecasted sales of firm power), it failed to foresee important changes in the electric utility industry, and with regard to fish and wildlife recovery needs in the Pacific Northwest. Thus, over time, funding has not increased at the same rate that the Council's responsibilities have expanded. Moreover, the Council's authority is limited to influencing (not controlling) federal agencies, and it does not have any legal authority over state and tribal resource decisions.

Information: www.nwcouncil.org/



VI. WHAT MIGHT THIS LOOK LIKE IN THE COLORADO RIVER BASIN?

Experience with a wide range of cross-jurisdictional approaches like the ones described in the preceding pages teaches that regional collaboration is more like community organizing than rational planning. Any effort to apply broad general principles requires adaptation to the particular place and the people that live there. Thus, the real work lies in application of these ideas and examples to the particular physical and institutional setting of the Colorado River.

The benefits of such an approach addresses the interests expressed by Colorado Basin leaders in our earlier assessment. Increased basin-wide coordination and more meaningful participation by those affected by Colorado River management decisions could enhance the ability of basin leaders to get their jobs done—and possibly provide greater political and financial support to address the formidable challenges of climate change in the decades to come.

In light of that initial assessment, and the need to tailor any particular approach to the needs of the particular place in which it will be applied, we offer here some observations about the factors that might influence implementation in the Colorado River Basin:

- The physical challenges facing the Basin are daunting. Water demand currently exceeds supply, and climate models predict river flows will decline anywhere from 9% to 30% in the next 50 years.
- Virtually all formal water governance at the basin-wide level derives from the 1922 Colorado River Compact, the foundational document that sets forth rights and obligations with regard to the interstate delivery and management of water.
- Formal water governance at the basin-wide level is dominated by the signatories to the 1922 Compact—the governments of the seven basin states and the United States. These governments are in theory charged with representing the interests of all stakeholders affected by Colorado River water decisions. In practice, however, many have questioned how effectively state agencies can simultaneously represent the many diverse interests that are affected by water management decisions.
- A wide range of stakeholder groups are affected by water management and allocation decisions in the Colorado River Basin. These include environmental organizations, Native American tribes, cities, farmers, farm workers, and others. While these groups lack formal standing in basin-level governance processes, they can often affect the outcome of those processes—either positively or negatively—through litigation, political organizing, media campaigns, and other means.
- The existing seven-state basin-wide governance process has a successful, if limited, track record of collaboration to address specific issues. The states have an established tradition of resolving most interstate disputes through dialogue and negotiation rather than litigation, of which they are justifiably proud. Moreover, during the most recent major governance process—the negotiation of

the 2007 Colorado River Accord—certain environmental stakeholder groups were able to effectively participate through ad hoc opportunities, but many were not.

- A number of collaborative processes that engage stakeholders to address specific challenges exist in the Colorado River Basin. These include the Glen Canyon Adaptive Management Work Group, the Upper Colorado River Endangered Fish Recovery Program, and the San Juan Recovery Implementation Program. However, no existing collaborative process has a sustained presence at the basin scale.

In light of this background, we suggest here a few observations on how the spectrum of options discussed in this policy brief might respond to the two main governance concerns expressed by Colorado River Basin leaders in the *Thinking Like a River Basin* report—i.e., more basin-wide coordination and broader stakeholder engagement. As with our earlier discussion and the examples from other river basins, these are presented in the order of least- to most-formal in organization and structure:

- **A voluntary network or set of linked dialogues** could provide for broader stakeholder input in a way that addresses some leaders' concerns about creating new "bureaucracy" or excessively burdensome consultation. Something like a *Colorado River Basin Consortium*—whether convened by academic institutions or some other nongovernmental entity—might provide a regular and useful means of stakeholder input and informal dialogue with decision makers, an alternative to the "guerilla consultation" that takes place when certain stakeholders find the means of providing input but many do not. On the other hand, this approach would not answer questions about basin-wide leadership or coordination, and might prove frustrating if stakeholders conclude that they are being shunted off to a side conversation with little import for official decisions.
- **A regional goal-setting collaborative entity** would answer some of the concerns of those who see a lack of leadership or a failure to develop a common vision for the Colorado River Basin. Something like a *Colorado River Basin Forum* could engage all levels of government agencies, elected officials, and stakeholders to develop and articulate shared goals for the basin (perhaps in a Colorado River Basin Charter), and to seek implementation through their various areas of influence and jurisdiction. Such a regional entity can coexist with and complement the work of states that share water resources through an interstate compact, as is the case in the Great Lakes; that example illustrates how a shared vision can support joint efforts to secure national attention (and funding) for resource protection goals. The Great Lakes entities were motivated to articulate a shared vision in response to a perceived external threat of water exports to distant states or countries. The growing scientific consensus that climate change will bring much drier conditions to the Colorado River Basin could serve as a similar external threat motivating collective action.
- **An advisory group with appointed stakeholder representatives** would elevate the stakeholder participation to an official capacity, for example in the form of a *Colorado River Basin Advisory Council*. This would limit official participation to those selected as representatives of particular interests and thus would be less inclusive of the broad public, but would respond to those who wish to see a more formal seat at the table for interests affected by but not formally recognized in current

processes such as negotiations among the seven basin states. An advisory council could tackle discrete questions, hashing out collaborative solutions for consideration by state and federal decision makers. Their recommendations would not be binding, and the financial and logistical burdens of sustained participation might make it difficult to keep a diverse group engaged over the long run.

- **A regional governance authority** would be the most formal approach to coordinated management in the Colorado River Basin, and would require interstate agreement and congressional legislation. In the research for the *Thinking Like a River Basin* report, some leaders expressed the opinion that something like a *Colorado River Basin Authority* (or Commission) with some level of formal, binding decision making authority would be the only approach with enough “teeth” to address the challenging issues at hand; others felt it would add undesired complexity to basin water governance. Either way, this is not a new idea: President Herbert Hoover urged creation of a Colorado River Commission when the Compact was negotiated in 1922, and Governors Richard Lamm (Colorado) and Bruce Babbitt (Arizona) both urged formation of a commission in the 1980s, possibly funded by a power surcharge as is the case with the Northwest Power and Conservation Council. Such a basin-wide organization would be a forum for discussion, debate, and even battles over river management—providing an alternative forum for solving problems before resort to litigation. The organization might also develop and distribute credible information, a sustained version of what the Basin Study is accomplishing now. Whether it would improve opportunities for stakeholder engagement would depend entirely upon its design and implementation, drawing lessons from the experience of the NPCC.

It might be worthwhile for the seven basin states and the Bureau of Reclamation to incorporate the above spectrum of approaches into the current Colorado River Basin Study. The options and opportunities phase of the study could be an ideal place to analyze whether whether these approaches would respond to issues highlighted thus far in the study process and, if so, to incorporate a stakeholder dialogue process into its modeling of potential solutions for balancing long-term supply and demand. Such an analysis could provide an important means of advancing a basin-wide conversation on whether to make broad stakeholder collaboration a more regular part of river management planning and decision making.

THE COLORADO BASIN



Source of Map: Bureau of Reclamation

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Colorado Futures Project

www.carpediemwest.org/what-we-do/colorado-river-futures-project

Carpe Diem West’s Colorado River Futures Project creates a forum where innovative leaders from across the Colorado River Basin come together to discuss solutions to the long-term water supply and demand imbalances the basin faces in a time of climate change.

**Center for Natural Resources
and Environmental Policy,
The University of Montana**

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