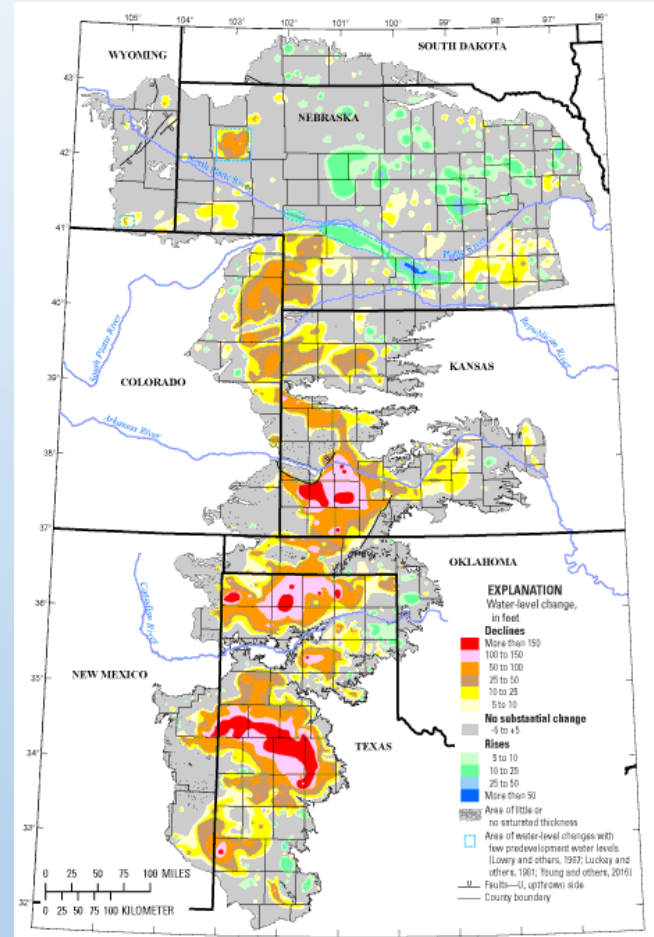


Transboundary Aquifer and River Governance



Jennifer Gimbel
Colorado Water Center
Grad 592 Fall 2019

Course Overview

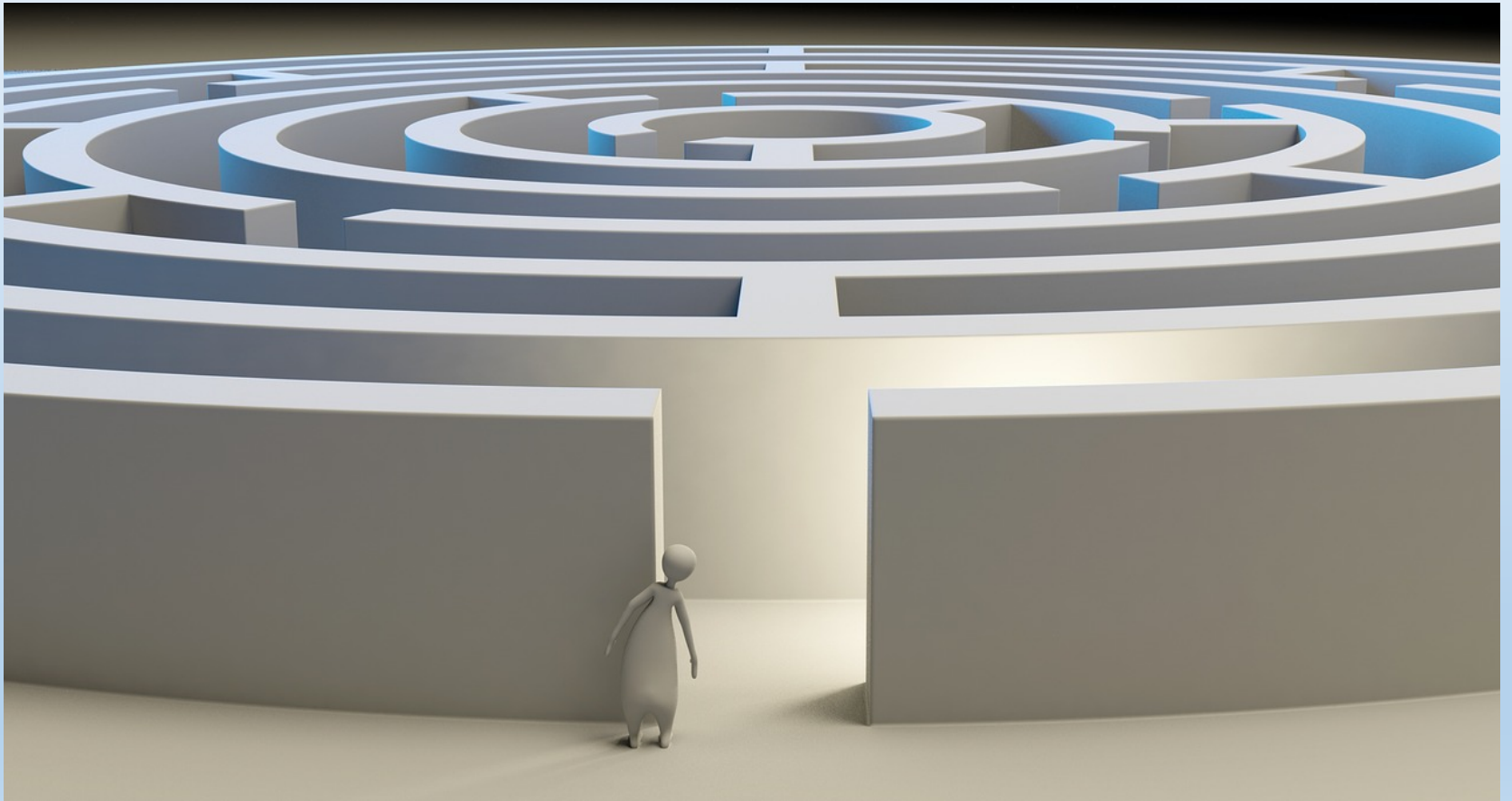
- ✓ Colorado Water Law Basics
- ✓ Water Law and Issues in Nevada, Wyoming, Nebraska, New Mexico
- ✓ Federal Water Law
- ✓ Interstate Compacts
- ✓ International Treaties
- ✓ Interstate Aquifers and Groundwater Issues



Course Requirements

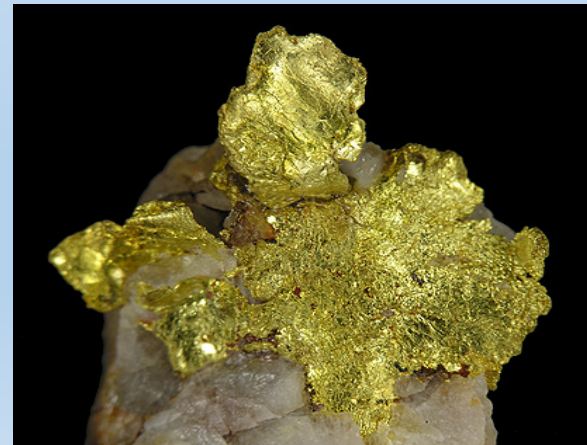
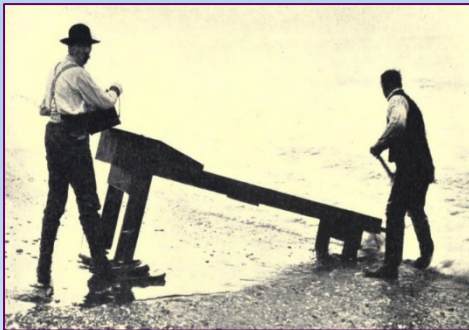
- Attend seminar: 60% of grade
- Read the assignments before each class
- Final project: 40% of grade. Paper (2-4 pages) on an interstate water issue outside of Colorado or a comparison of another state's water law system to Colorado.

Let's Begin



Water Law Systems

- Riparian System
 - “Reasonable Use” by riparian landowners
 - Shortage- “Share and share alike”
- Prior Appropriation System
 - Any party could use water
 - Shortage- “First in time, first in right”
 - Rights transferable



Miners



- 1859 Gold Rush in the Rockies.
- Claims were based on first possession “first in time, first in right”
- Water laws were first established by the Territorial Court
- Significant alteration of rivers occurred

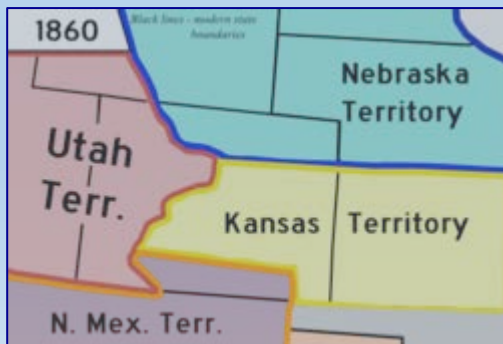
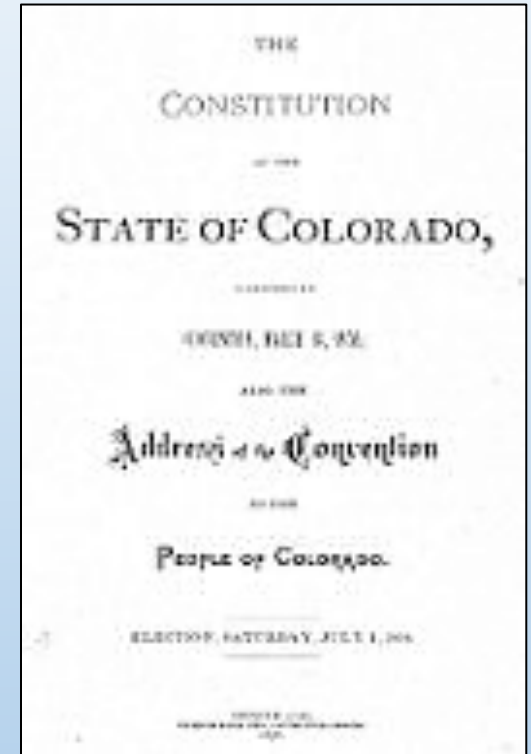


1876 – Colorado becomes a state

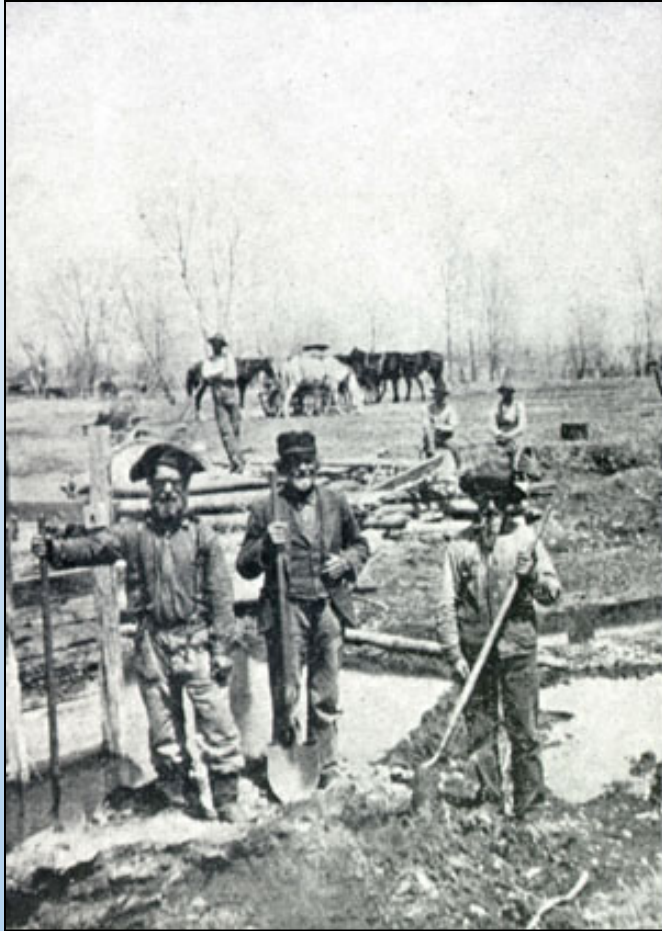
A strict Doctrine of Prior Appropriation is adopted in the state constitution.

"The right to divert the unappropriated waters of any natural stream to beneficial use shall never be denied."

Colorado Constitution 1876



Western Water Development



1860s – Individual direct diversion ditches

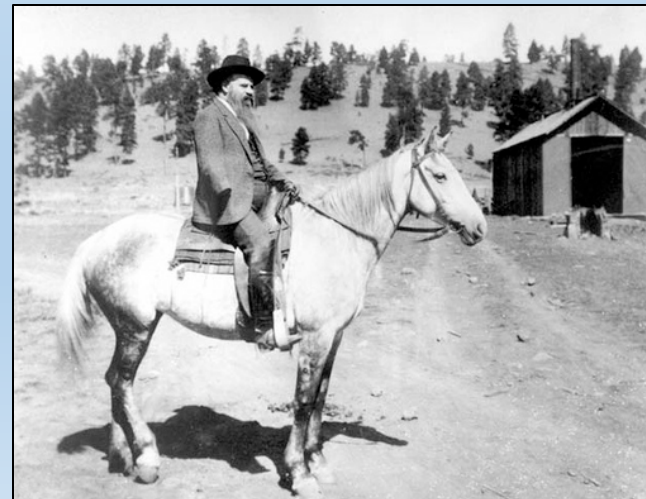
1870s – Community and larger scale diversion projects

1880s – Transbasin diversions

1890s – Reservoir construction

1902 – Bureau of Reclamation large project era begins

1930s – Groundwater development



Prior Appropriation Doctrine

- Earliest appropriators have the **highest priority**; “First in time, first in right.”
- Water must be put to **beneficial use** without waste or speculation.
- **Remote uses** and **transfers** allowed.
- Right of use can be **forfeited by non-use**.



Early Beneficial Uses



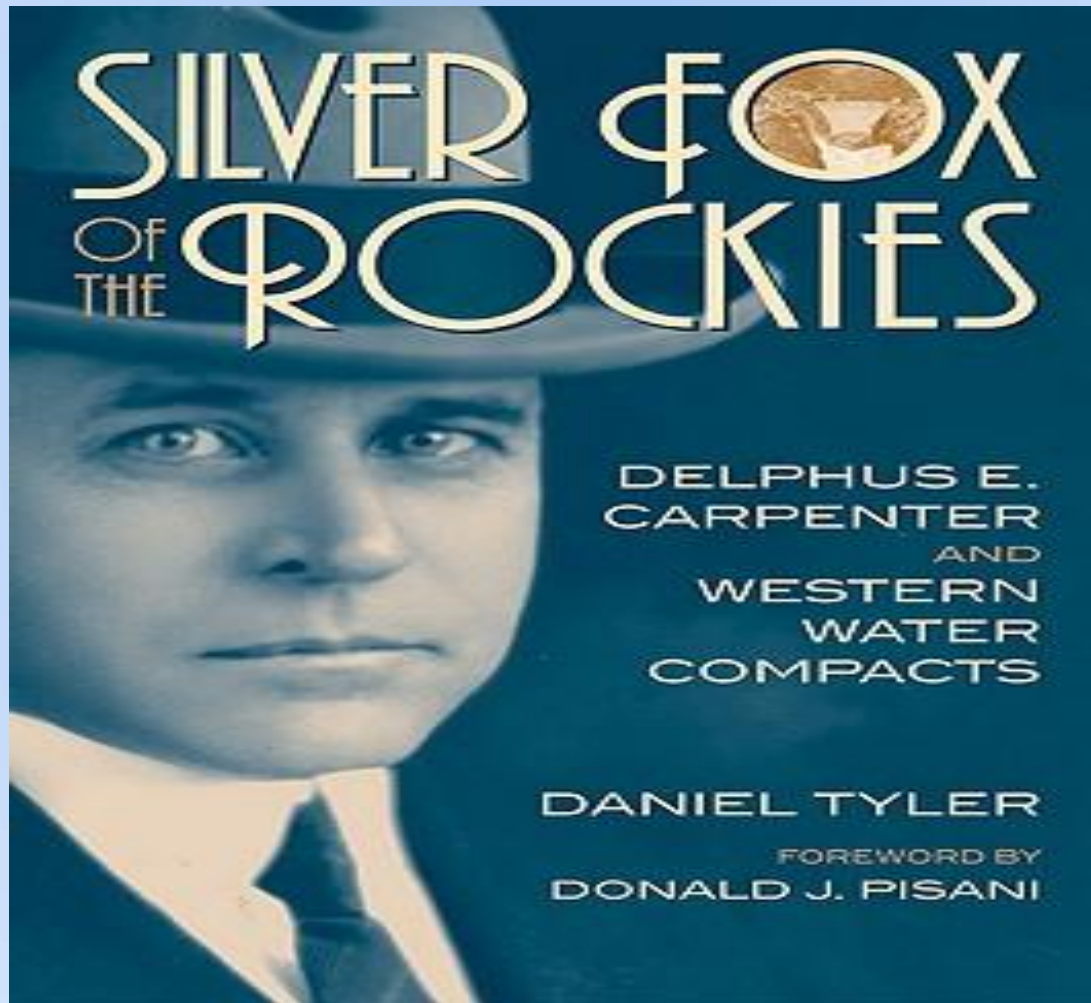
Definition of Beneficial Use Expands



Resolving Controversies Between States

1. Direct Legislation by Congress.
2. File original action in U.S. Supreme Court pursuant to Article III Section 2 of Constitution.
3. Compact between states, usually approved by Congress under Compact Clause (Article I, Section 10 in U.S. Constitution).

Delphus E. Carpenter Father of Interstate Compacts



Colorado Interstate Compacts

- 1922 Colorado River Compact
- 1922 La Plata River Compact
- 1923 South Platte River Compact
- 1938 Rio Grande Compact
- 1942 Republican River Compact
- 1944 Amended 1963 Costilla Creek Compact
- 1948 Upper Colorado River Compact
- 1949 Arkansas River Compact
- 1969 Amended Animas-LaPlata Project Compact

International Water Treaty

- 1945 Treaty with Mexico on Rio Grande, Tijuana and Colorado Rivers.
- U.S. required to deliver a certain amount of water to Mexico on Colorado River and Mexico to U.S. on Rio Grande.
- States get remainder to share.



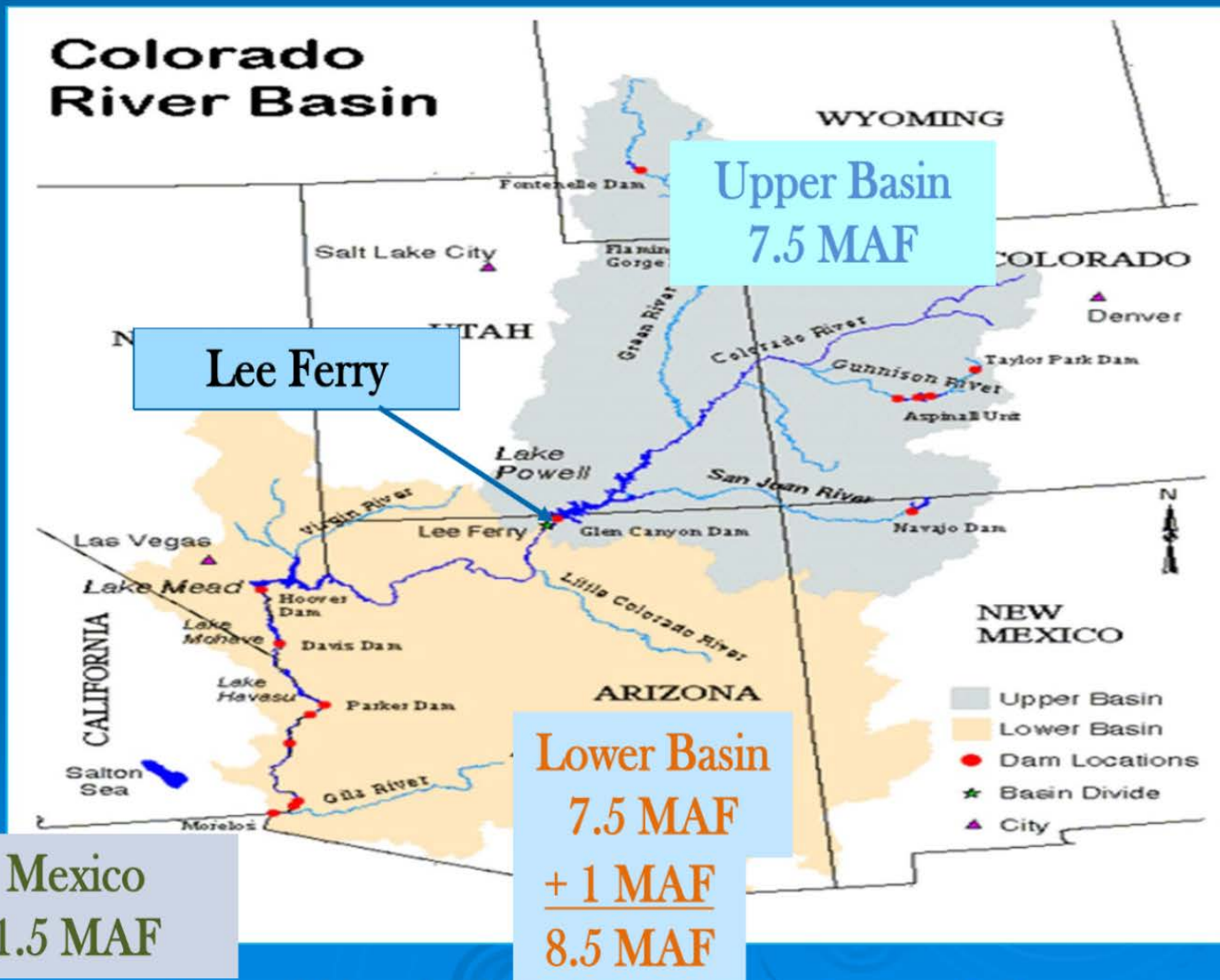
Colorado River



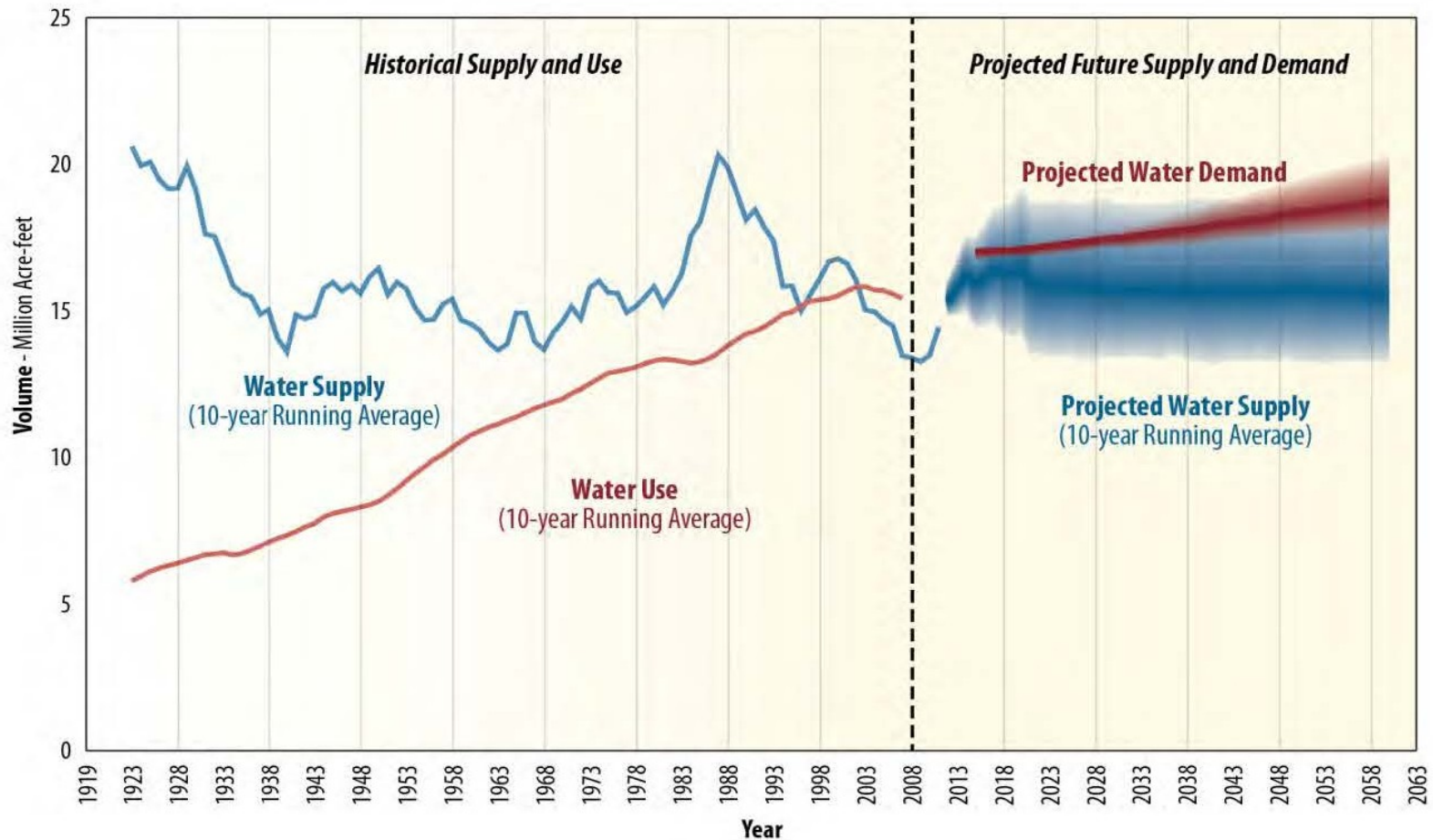
Colorado River Basin



Colorado River Compact, 1922



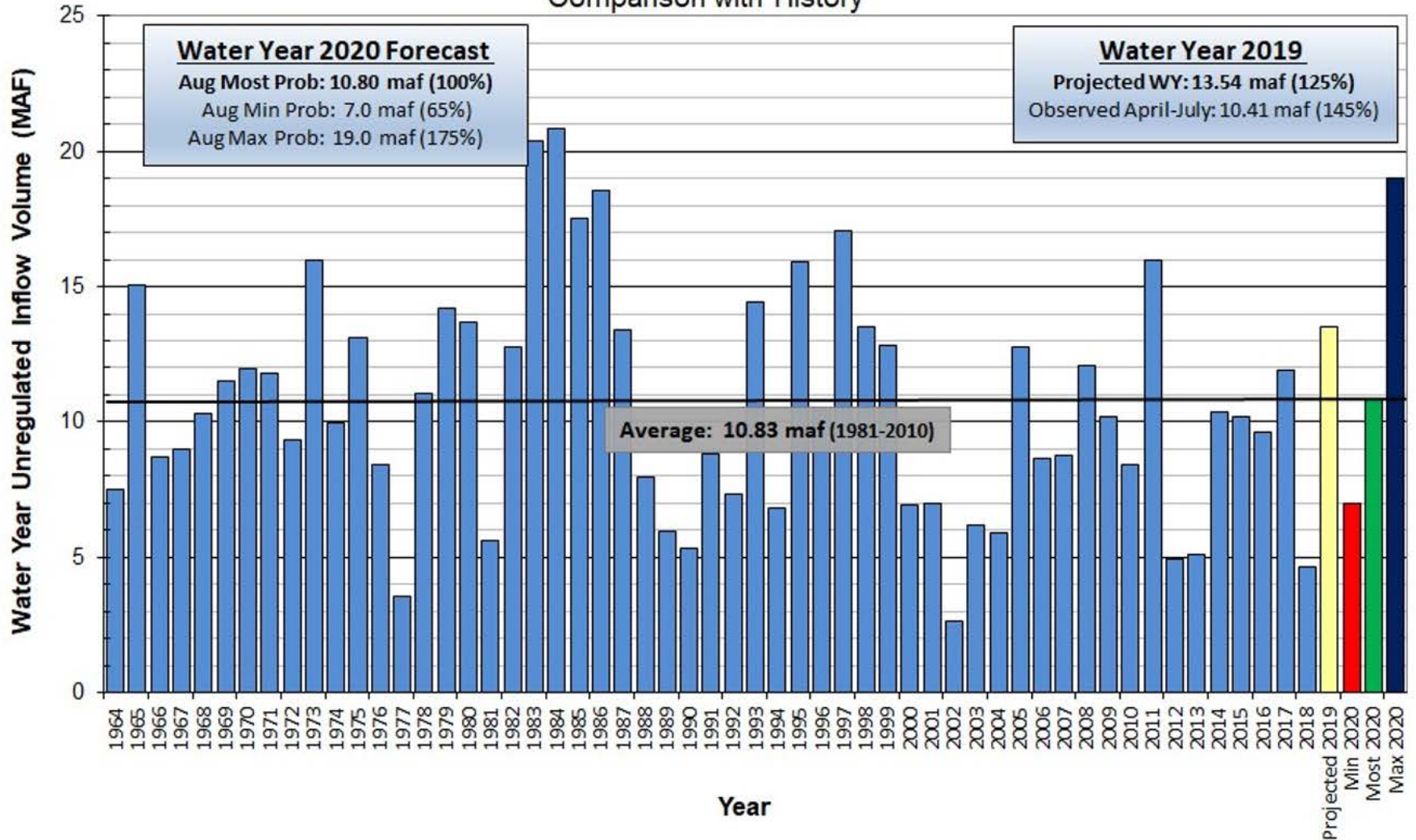
Supply v. Demand



Source: Bureau of Reclamation

Feast or Famine

Lake Powell Unregulated Inflow
Water Year 2020 Forecast (*issued August 1*)
 Comparison with History



Law of the River

- 
- ❖ Compacts
 - ❖ Treaty
 - ❖ Statutes
 - ❖ Operating Plans
 - ❖ Interim Guidelines
 - ❖ Drought Contingency Plans

Maxims

Money

to

Uphill

Flows

Water



Whiskey's for Drinking, Water is for Fighting



Maxims



I'd rather be upstream with a shovel than downstream with a water right.