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Trump win adds pressure to U.S.-Mexico water negotiations

By Annie Snider

11/21/2016 05:21 AM EDT

Negotiations between the U.S. and Mexico to seal a water-sharing deal over the dwindling supplies on the Colorado River are confronting a new deadline: the inauguration of Donald Trump.

A 16-year drought has sent water levels at the river's most important reservoir, Lake Mead, to the lowest levels since it was first filled in the 1930s, threatening supply cuts for 40 million people across seven U.S. states and two Mexican states, and raising the stakes for the two countries as they try to hammer out an extension of the 4-year-old agreement on how to share the water.

That agreement expires at the end of 2017, but negotiators who've worked for years are pressing to finish a new pact before President Barack Obama leaves office — or put at risk years of fruitful collaboration on the sharing of cross-border water supplies that are vital to both countries.

The fear is not only that Trump — who has called Mexicans rapists and criminals and vowed to erect a massive border wall — could derail any potential deal, but that even turning the talks over to new negotiators would stall the process at a critical moment, since it would take them months to get up to speed.

"All this blustering, all of these insults being hurled around just doesn't help, because we depend on Mexico in so many ways." said Stephen Mumme, a political science professor at Colorado State University.

The issue is just one of dozens of crucial international topics, from the relationships with NATO and Russia to Asian trade deals, that may take a dramatic shift under a Trump team that campaigned on an "America First" platform.

Farmers and cities in Arizona and Nevada could face their first cuts in water supplies a year from now, just as the existing agreement ends. Without a new agreement with Mexico, it is unclear whether or how those cuts could be shared across the border, raising the prospect of either deeper, swifter cuts to U.S. states or a bitter cross-border dispute.

Water policy experts say that even before Trump's election, the Obama administration had been pressing to tie up a new deal for the Colorado River and avoid any delays caused by the change in administrations.

"There's pressure to finish off any type of arrangement that you start with one administration," said Carlos de la Parra, a Mexican water analyst who advised his country's lead negotiator on the previous water sharing deal. "Now there's this surprise, and there's a President-elect Trump, and obviously that becomes a little more acute given his discourse."

The Colorado River provides the lifeblood of much of the American southwest, feeding desert metropolises including Phoenix, San Diego and Las Vegas, and supplying farmers who grow 15 percent of the nation's food. The river rises on the Continental Divide in Rocky Mountain National Park, and snakes 1,450 miles before finally draining into the Gulf of California on the Mexican side of the border — although most of the time there's barely a trickle left by the time the river reaches its delta.

Experts say that just because a potentially hostile new U.S. president is coming into office doesn't mean that Mexico will settle for less than it wants. While Mexico has been "very fair to the U.S. — more than it had to be" in previous negotiations, the water treaty is a sovereignty issue that "gets down to the raw material of Mexican nationalism," Mumme, the political science professor, said.

"There are big incentives on both sides to get this done, and done in a way that's sustainable," he said. "But it's not going to come at Mexican expense and Mexico cannot be bullied or pressured in this. I think that's one of those things that's going to be a little bit of a wake-up call for the Trump administration."

Negotiators are focusing on the technical aspects of crafting a water-sharing deal and hoping to keep politics out of the talks. Sally Spener, foreign affairs officer at the International Boundary and Water Commission, the U.S.-Mexican agency that negotiates and applies the treaties, said the American commissioner "has instructed his staff to continue with our work and we continue to do that."

Roberto Salmon, the lead Mexican negotiator, told POLITICO the primary urgency to sign a new deal comes from ongoing drought conditions and dire predictions for the basin, rather than "political issues or political aspects or the political life of either country." But keeping calm heads only stands to get harder as flows on the river continue to dwindle.

Under a 1944 treaty with Mexico, 1.5 million acre feet of water must be sent across the border each year, an amount that's roughly enough to supply 3 million homes. But the treaty's provisions laying out rules on what happens during a drought are vague and undefined.

Moreover, hydrologists now realize that the period in the early 20th century when the Colorado River's water supply was divvied up was unusually wet. The treaty presumes that 16.5 million acre feet of water will flow down the river each year, but newer studies show the river's flow has historically averaged about 15 percent less than that. And as temperatures rise and climate change shrinks the winter snow pack that feeds the Colorado, the river is likely to carry even less water in the future.

The strain is already being felt*: *water levels behind the Hoover Dam at Lake Mead this year plummeted to the lowest level since the reservoir was built. Under existing law, Arizona and Nevada must start taking cuts when water levels reach 1,075 feet above sea level in late summer. The Bureau of Reclamation estimates there's a 50-50 chance that level will be hit next year, triggering the first supply cuts for the U.S. — and potentially Mexico — in 2018.

In fact, if the existing compacts and treaties had been strictly followed, the cuts would already have begun. But after years of battling each other in court and across the negotiating table, the U.S. and Mexican governments and the seven U.S. states in the Colorado River basin decided to stop fighting and start working together, ultimately staving off water delivery cuts for several years.

In the U.S., the lower basin states of Arizona, Nevada and California have struck several deals to undertake and fund aggressive water conservation programs. The U.S. and Mexico struck a similar deal as part of the water sharing agreement signed in 2012 that is set to expire next year. Under that deal, called Minute 319, the states and the U.S. federal government are investing \$21 million in water conservation programs in Mexico like lining canals to reduce leaks and improving water efficiency at farms.

That deal also takes steps to restore the parched river delta south of the border, and allows Mexico to store some of its Colorado River water supplies in Lake Mead to make up for capacity that was lost in Mexico after a 2010 earthquake damaged its dams. That created a win-win situation that helped Mexico solve its shortage problem while bolstering water levels at the critical reservoir.

But that history of collaboration may be tested if the negotiations drag on into the new Trump administration, which has focused much of its most bombastic rhetoric on international trade agreements and immigration from Mexico.

Trump hasn't spoken about the Colorado River's issues and his transition team did not respond to a request for comment. But during the campaign he championed the plight of farmers in the Central Valley of California, who have had their water deliveries cut thanks to a five-year drought combined with endangered species protections that restrict pumping from the state's water hub in the Sacramento-San Joaquin delta in the northern part of the state. In a May campaign stop in Fresno, Trump vowed to fix the state's "so insane" water problem to "bring jobs back."

And, in what could be signal of the type of policies to expect, David Bernhardt, a former Interior Department solicitor who is now the top lobbyist for a powerhouse Central Valley water district, was tapped to lead Trump's initial transition for the Interior Department.

Getting a Colorado River deal done before Trump's inauguration will be a heavy lift. Mexico has indicated that it doesn't want to sign the deal until a separate but related agreement is in place on the U.S. side of the border. That deal, a drought contingency plan between California, Arizona and Nevada, calls for the states to conserve additional water above and beyond mandatory cuts in order to increase reservoir levels and stave off the most severe scenarios. Although the states have agreed to top-line numbers, they've haven't yet worked out with their farmers, cities and other users how to share the cuts. And in Arizona, the state legislature must give its approval to any pact.

Water experts agree that it's only a matter of time until a shortage declaration is declared on the river, and without a new U.S.-Mexico deal in place, what would happen then is anyone's guess.

The U.S. could simply implement the delivery cuts agreed to under the 2012 deal, hoping that Mexico wouldn't object to extending those provision under

the expired deal. But it's not clear whether those cuts would still be acceptable to Mexico.

"Without a U.S.-Mexico agreement, it's entirely possible that Mexico asserts that it does not have to take a shortage," said Jennifer Pitt, Colorado River project director for the National Audubon Society.

Moreover, whatever the U.S. does on the Colorado River could have knock-on effects elsewhere. In particular, the same treaty that governs the Colorado River also covers the Rio Grande, where Mexico is obliged to deliver water to the U.S.

It was Mexico's failure to deliver agreed-upon water volumes from the Rio Grande to the U.S. that last raised U.S.-Mexico water issues to the presidential level. That was in 2005 under President George W. Bush, who was acutely aware of the importance of that water to his home state's farmers.

Cross border tensions were also high in the mid-2000s, when some of U.S. Colorado River water was seeping into the ground and over the border and being pumped by Mexican farmers. And a feud between the two countries over salinity levels in the water that the U.S. was sending south that piqued in the late 1960s is still fresh in the minds of water experts on both sides of the border even after half a century. Mexico repeatedly threatened to sue the U.S. over that issue, and ultimately President Richard Nixon appointed a special ambassador to deal with the problem.

Key players on the Colorado River are hopeful that relations won't get that bad anytime soon, even as they acknowledge that Trump's fiery campaign rhetoric presents a major wild card.

"On the merits, having Mexico conserve more water to improve the reliability of the Colorado River water supply for 36 million users in the U.S., for 15 percent of U.S. agricultural output, that seems to me to have enormous value," Pitt said.

"On that basis, I have confidence. But on the basis of how rhetoric can sometimes get detached from those merits — I don't know," she said.

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