



# COACHELLA VALLEY WATER DISTRICT

*Established in 1918 as a public agency*

GENERAL MANAGER

Jim Barrett

ASSISTANT GENERAL MANAGER

Robert Cheng

CLERK OF THE BOARD

Sylvia Bermudez

ASSISTANT GENERAL MANAGER

Dan Charlton

January 4, 2021

VIA EMAIL AND U.S. MAIL

[sscantlebury@azwater.gov](mailto:sscantlebury@azwater.gov)

Sharon Scantlebury  
Arizona Department of Water Resources  
P.O. Box 36020  
Phoenix, AZ 85067-6020

Dear Ms. Scantlebury:

Subject: Comments of Coachella Valley Water District Regarding Potential Legislation Authorizing The Colorado River Indian Tribes To Market Its Colorado River Water Entitlement And Related Agreements

Coachella Valley Water District submits the following comments on potential legislation authorizing the Colorado River Indian Tribes to market its Colorado River Water Entitlement and related agreements.

Coachella Valley Water District (CVWD) is a public agency of the State of California, and provides, among other services, irrigation and groundwater recharge services in the Coachella Valley using Colorado River water diverted pursuant to contracts with the Secretary of the Interior under Section 5 of the Boulder Canyon Project Act. CVWD is also a party to the Consolidated Decree in *Arizona v. California*, 547 U.S. 150 (2006).

CVWD appreciates and welcomes the effort made by the Arizona Department of Water Resources to inform the various stakeholders in the Colorado River Basin, including Section 5 contractors and Decree parties, regarding the proposed legislation and related agreements, and greatly appreciates the time taken by Director Tom Buschatzke to brief the Basin States Principals and the time taken by General Counsel Ken Slowinski to discuss the matter with the CVWD's Special Counsel. These briefings and discussions were very informative and allowed CVWD to better understand the potential legislation and proposed agreements and allay a number of potential concerns of CVWD.

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CVWD understands that under the proposed legislation and agreements, only water conserved by fallowing of lands with a defined history of irrigation within Arizona will be eligible for transfer to entities within Arizona, and that any groundwater storage of that water will ultimately be put to a future beneficial use within Arizona. CVWD also understands that no part of the Colorado River Indian Tribes decreed rights in California, specifically those enumerated in the Consolidated Decree, Appendix, Part II (547 U.S. 174), is the subject of the proposed legislation and agreements.

As you may be aware, the subject of reserved water rights for Indian Reservations is unsettled and leaves much room for disagreement and argument. It is important that legislation pertaining to the use of the reserved water rights of one reservation, and in this matter, only the water rights decreed to the portion of a reservation lying within one state, not have unintended effects regarding unsettled disputes or future controversies that may arise concerning the reserved water rights of other reservations or of the portions of the Colorado River Indian Tribes reservation in California. CVWD therefore requests that a “no precedent” clause be included in the proposed legislation similar to the language included in the 2019 Colorado River Drought Contingency Plan Authorization Act (Public Law 116-14, 133 Stat. 850):

“Nothing in this Act shall be construed or interpreted as precedent of the litigation of, or as altering, affecting, or being deemed as a congressional determination regarding the water rights of the United States, any Indian Tribe, band, or community, any State or political subdivision or district of a State, or any person.”

Thank you for the opportunity to comment and for consideration of the proposed legislative language.

Sincerely,



J. M. Barrett  
General Manager