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Arizona Department of Water Resources
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RE: Potential Legislation Authorizing Colorado River Indian Tribes to market its Colorado River Water Entitlement and Related Agreements

To Whom it May Concern:

I am strongly against the “potential legislation authorizing Colorado River Indian Tribes to market its Colorado River Water Entitlement and Related Agreements” that the Colorado River Indian Tribes (CRIT) has been putting in motion for at least the last five (5) years. Much of this work has been done in secret and kept from the people that it will impact the most – the CRIT membership and the surrounding communities of Parker and La Paz County.

I am asking that the following be considered before allowing the potential legislation and agreements to move forward:

Cultural Significance

For the Mohave people, according to their creation story, or their version of Exodus as found in the Christian bible, the Colorado River was created for the Mohave people to use, protect, and sustain Mohave ways of living. They were taught to use the waters from the Colorado River and the silt it left behind to farm and feed their people. The river is a big part of who the Mohave people are, and any variance imposed on what we have left today could change what little ways we have left.

Since immemorial, it has been the Mohave’s duty to protect the land and water. Across Indian Country, in North America, including Canada and Mexico, indigenous people are standing to protect their lands and water resources against government and big corporations. They know the detrimental impact it will have on their cultures and the environment. Movements at or against: Standing Rock’s No DAPL, Keystone XL Pipeline, Mauna Kea telescopes, movements against Nestle and their depletion of groundwater, the desecration at the Black Hills (Mount Rushmore), tribes against the desecration to their cultural sites by the border wall on the Mexico border, and many other movements that promote that the indigenous people have a strong connection to their lands and water and any further destruction of them goes against everything that oral history has taught them as a people, to protect them. The actions to move CRIT water off the reservation is a threat that is coming from within our own

tribe and it goes against our duties as Mohave people and goes against previous tribal councils and leaders that have fought to protect and uphold since being allocated water rights.

Farming

CRIT has had a long history of agriculture. When you look at a map or globe, the CRIT reservation can noticeably be seen because of the long strip of green that used to represent the agriculture down our reservation along the river. CRIT used to be known for their agriculture, and until the casino, it was the prime source of revenue for the tribe and its tribal members. CRIT used to farm alfalfa, cotton, wheat, and various melons, all made possible through the water received through CRIT's water rights established through the Winters Doctrine of 1908 and reaffirmed in various case law.

Today, however, it is scarce to find wheat and melons, and cotton is becoming obsolete due to lack of local availability to cotton gin processing. The decline in farming can be associated to mismanagement of the farmlands and lack of innovation to use the water by leadership.

According to the "Colorado River Basin Ten Tribes Partnership Tribal Water Study (Tribal Water Study)" (2018) published by the Bureau of Reclamation along with members of the Ten Tribes Partnership, CRIT farms once cultivated about 12,000 to 15,000 acres of land – since then, that number has dropped substantially under 10,000 acres. If CRIT could find other crops to use their land and water for, there is potential to increase revenues for the tribe and its members. For example, according to the "2019 State Agriculture Overview for Arizona" (www.nass.usda.gov), there is a list of crops that CRIT could have planted that would have produced more revenue for the tribe and its people than any water deal, lease, or fallowing project.

In the Drought Contingency Plan (DCP), a plan to save the State of Arizona from limiting water users access to the Colorado River waters by storing water in Lake Mead, CRIT offered 150,000 acres feet of water to store and in return only received \$38 million; 50,000 acre feet of water per year for 3 years, totaling 150,000 acres feet of water. This meant CRIT had to give up farming 10,000 acres of its potential farmlands; CRIT could not grow or produce any agriculture or use water on this land.

According to USDA AZ statistics in the link noted above, with 10,000 acres of land, CRIT could have planted and valued in return:

Commodity	Harvested Acres	Yield	Produced	Price Per Unit	Value of Production <u>in Dollars</u>
Lettuce, leaf	9,800	230 cwt/acre	2,254,000 cwt	\$103/cwt	\$231,711,000
Cauliflower	6,700	170 cwt/acre	1,139,000 cwt	\$87.4/cwt	\$99,549,000
Broccoli	11,900	125 cwt/acre	1,487,500 cwt	\$58/cwt	\$86,275,000
Watermelons	5,000	505 cwt/acre	2,525,000 cwt	\$13.7/cwt	\$34,593,000
Lemons	7,300	185 boxes/acre		\$31.61/box	\$42,680,000

The crops or commodities listed above have potential to bring more revenue to the tribes than the DCP fallowing deal, or any other deal, and will keep CRIT's water here on the reservation – creating jobs here. With Arizona's recent legalization of marijuana, it is another commodity that will be in high demand and CRIT has the water and land to help fill that demand. We need better leaders, farm management, and experience to bring new innovative ideas in farming to our reservation.

In the news article entitled, “Water leases at root of recall effort on Colorado River Indian Reservation,” (Arizona Daily Star, 04/21/2018), Chairman Patch stated that the costs associated with flipping the fields to grow new produce or commodities was too expensive. However, shortly after making that statement in response to the recalls going against the tribal council because of their involvement and secrecy to lease water away from CRIT, the tribal council attempted to plant “organic lettuce.” However, due to a CRIT farms management and tribal council error and mismanagement, the organic lettuce attempt went under, costing the tribes around \$2.6 million in losses.

Recreation & Economy

CRIT, Town of Parker, and La Paz County rely heavily on the river to bring summer and winter tourists to the middle of an arid desert. If CRIT was to lease or market their water to users outside of our area, it has potential to deplete our section of the river, by either storing it at Lake Mead or being siphoned off at the Central Arizona Project (CAP) Mark Wilmer Pumping Plant to water users in central or south east portions of the State. Not only do businesses on the river rely on the boaters and other recreational users, but the businesses in the Town of Parker and throughout La Paz County also benefit from people flocking to our section of the river. Any changes to the river will also bring changes to our local economies. By keeping our water for CRIT use, it guarantees that our river will continue to flow and fill our section of the river to at least Headgate Dam before it is diverted to the CRIT valley for farming.

Helping local communities first

There has been a long history of contention between CRIT, Town of Parker, and La Paz County. If CRIT wanted to help Arizona, it would seem like it would benefit CRIT to help our local communities like the Town of Parker and La Paz County before we consider helping the State of Arizona’s multibillion dollar monopolies on water, like CAP or the Salt River Project (SRP) and their middlemen like Arizona Department of Water Resources (ADWR).

According to the Bureau of Reclamation’s (BOR) 2020 “Listing of Individual Water Entitlements in the State of Arizona,” the Town of Parker holds 1,030 acre-feet of “4th priority” water along with 2,000 acre-feet of “5th or 6th priority” water entitlements from the Colorado River; La Paz County holds 350 acre-feet of “4th priority.” The Town of Parker and La Paz County hold some of the lowest entitlements to water, what would happen if tier 3 shortages were declared at Lake Mead and CRIT’s water was tied up in other deals across other parts of Arizona? CRIT relies on the Town of Parker (TOP) and La Paz County residents and businesses, if there is no water, what will happen to TOP and La Paz County? What would happen to CRIT? It would be in the best interest of CRIT to start working with TOP and La Paz County to develop plans to sustain what has been built and how we can expand what we have, here.

Climate Change

There is no question that climate change is occurring, it is nature’s response to the increase of human impact on earth and its resources. There are numerous studies showing that Arizona is and has been in a drought for at least the last 20 years; it was this same premise that Arizona used to initiate the DCP. There are recent reports showing that Arizona is only getting hotter and drier. 2020 was one of the driest monsoons Arizona has faced, with some reports showing that it was the second consecutive year with record low rainfalls. With CRIT having this data, it would be in its interest to develop plans or bills for congress that would allow CRIT to store water on the reservation for future use. California

Metropolitan Water District has used mountain ranges to store water for southern California water users, CRIT should be developing ways to consider storing their own water for local use in case the trend of drought and hotter temps continue.

Arizona is not in the business of conservation

It was evident by the type of members participating on the DCP committee that there was something more to lose if water levels at Lake Mead continued to fall. It would not only be farmers in the middle of the state that would suffer but more namely, the home building developers, central Arizona municipalities, water authorities, along with CAP and SRP utilities, they would all have to stop developing - which would essentially mean the number of more customers would stop increasing = increased revenue would come to a halt or plateau. Government funding based on increasing population would stop increasing, the number of new voting constituents would stop increasing, and no more home building means no new customer accounts; but ultimately it would pause all potential increases in revenue and funding.

Arizona has not imposed any restrictions on new development that is not located near a running river, they continue to promote growth and promise water to places in the middle of the State that has no water sources other than diverting water from the Colorado River, other rivers or tributaries; the CAP canal being one of the biggest diversions that supplies the southern half of Arizona. Arizona and the Phoenix areas just keep growing.

Arizona has not imposed any restrictions on homes or businesses and how they use their water, which to many, could give the impression that there is no real imminent threat to Arizona's freshwater resources. Homes and businesses are still allowed to use fresh water to water their lawns, fill their fountains, water their golf courses, using water to mitigate air quality while building, and many other unrestricted uses. In Las Vegas, Nevada for example, they have mandatory watering schedules that tells their customers when they can water their lawns and what types of lawns are allowed or prohibited. Until Arizona starts using public service announcements and restrictions regarding conserving water, CRIT should not be rushing to help them with their unrestricted water uses.

Tribal Constitution

The forefathers of CRIT and previous tribal councils never included clauses in the tribal constitution that would allow any council to negotiate CRIT's water uses for off reservation uses, mainly because they never thought a true leader would negotiate something so invaluable to CRIT and its members.

The tribal constitution was revised in 1974 and even then, they chose not to add a section that would allow that tribal council, or any thereafter, to be allowed to negotiate what CRIT does with its water other than to use it here on the reservation for the reservation.

According to the tribal constitution, there are term limits for being on tribal council, which is set to 4 years and each member of council must be re-elected to remain on council after that 4-year term. Any actions taken on water leases or marketing by tribal council should not be allowed to exceed their term limits. According to the public meeting presentation on December 10, 2020, these water deals have potential to enter into 99 year leases, these type of leases would be detrimental to future generations, handicapping all future councils and CRIT leaders from bringing development and innovation to use our water here on the reservation if it is tied up into anything longer than that council member's term limits.

The tribal council and Chairman Patch pushed this unfavorable change to CRIT's water rights through the "referendum" process instead of amending Article VI of the tribal constitution, "Powers of the Tribal Council." What they are trying to do with CRIT water should be an amendment under this section but that would require additional approval from the Secretary of the Interior AND would require that at least 30% of those eligible to vote [all tribal members 18 and above] did vote on such amendment, per Article XI of the tribal constitution, entitled "Amendments."

According to the Parker Pioneer article, dated January 20, 2019, only 435 members voted "YES" to pass the referendum, while 252 voted "No." According to Article X of the tribal constitution, entitled, "Referendum," "the vote of a majority of the qualified voters in such referendum shall be conclusive and binding on the tribal council, provided that at least thirty (30) percent of the registered voters shall vote in such election." This section is different than the "amendments" provisions, as it does not seek Secretary of Interior approval only that at least 30% of the membership voted on such referendum. CRIT had an enrollment of about 4,434 members; according to 2010 "Demographic Analysis of the Colorado River Indian Tribes Using 2010 census..." data, CRIT reservation has an "under 18-year population [that] accounts for 29.9 percent of all tribal members...compared to the State's 25.5%..." Therefore, 435 voting "yes" and 252 voting "no" on the referendum only totals 687 tribal members that participated in the referendum election. This would mean that out of the 3,108 that were eligible to vote in the referendum, only 687 voted; however, at least 932 tribal members needed to vote on the referendum to meet the 30% requirement to pass the referendum, per the tribal constitution – this did not happen, only 687 tribal members voted on said referendum, which is about 22% of the eligible membership. Many believed that if they did not vote it would not meet the 30% requirement and it would not pass anyways, so they opted out of participating in the election; many did not understand what the council was trying to do and did not want to participate in such detrimental actions if they did not understand what they were voting on. Therefore, what Chairman Patch and that tribal council is doing, is unlawful and violates CRIT constitution. Any actions taken to pursue leasing CRIT's water, is a violation to our constitution and our people – it is not what the membership wanted their council to do.

Issues with the Referendum

Nowhere within the CRIT referendum language did it advise the membership that "tribal sovereignty" would be waived if CRIT chooses to move forward in any water leases or deals with the State of Arizona and Arizona Department of Water Resources. However, this was a stipulation that would be required, per the public meeting held on December 10, 2020.

Another condition that was not mentioned in the CRIT referendum was that leases could be made for 99 years. Again, this condition was mentioned in the public meeting held on December 10, 2020 but was not included in CRIT's referendum language.

The public meeting mentioned that the only CRIT land that was "protected" was the 15,000 acres of land that were allotments. Does this mean that CRIT could choose not to lease out or renew leased land to tribal members or farmers in order to fallow more land or lease more water; in return CRIT would not farm those lands but instead be able to lease or market more water, leaving our valley to dust? The differences in protected land versus not protected, was not mentioned in the referendum.

These stipulations and conditions should have been brought forth to the tribal members attention but it was left out, why? Again, tribal members should be protective of their land and water, and this should

be no different, if the tribal membership knew these stipulations or conditions existed would the outcome be different? Why were these things omitted from the membership? Who or what purpose does it serve when it is intentionally left out?

Public Meetings

The public meetings held by CRIT left many tribal members with questions unanswered and concerns not addressed, considered, or down right just dismissed. However, CRIT tribal council moved forward anyways.

Any tribal member that opposed tribal councils' actions to lease water either for the DCP or other causes, were villainized and accused of working in "gangs" to thwart council's actions. The tribal council acted in secrecy and attempted to hide their intentions from the membership until news articles started to be published. When the public information received from CAP by the Arizona Daily Star reporter Tony Davis was brought forth by tribal members to tribal council during meetings, council members stated that CAP was lying, and that the membership should not believe the information being released by CAP or the newspapers. The tribal council denied, denied, denied until the DCP was formalized and released, then and only then was the membership privy to the details that CRIT council had taken.

The last public meetings held in December 2020, in conjunction with ADWR was held on a Cisco Webex platform, which was not operable on many smart phones. This meant that those that wanted to attend the online meeting, had to have a computer/laptop and internet access. Most of the CRIT reservation does not have access to the internet, which would leave a large percent of the membership unable to attend, oppose or submit public comments. I understand that there is currently an ongoing pandemic which is why the meeting was held in an online forum, but maybe now is not the time to pushing such detrimental legislation.

Future Generations

Pushing this bill forward has a costly consequence on future generations and will limit them on what they can do with CRIT's water for CRIT and its members and its surrounding communities. The only reason CRIT is not currently using all its diverted water is because we have leadership and management that lacks innovation and experience to do something that would truly benefit our reservation and its members. Please do not handicap our future because of the failures of past councils and Chairman Patch.

As tribal councils change throughout the years, we may eventually have one that can do something with our water here on the reservation that will truly be economically beneficial to the people on CRIT reservation. Currently, about 50% of CRIT's operational budget is from federal grants and contracts i.e., taxpayer money. CRIT must begin to use the resources they have in order to become self-sustaining, leasing our water is not utilizing our resources – it is handing it to someone else to utilize better than we have been able to.

Please, I am asking that this legislation be pulled and not considered with the stipulations and conditions that are included, as these were not brought to the membership for consideration. I doubt the community at large even knew they could submit comments in opposition of such legislation because 1) it is tribal, and 2) the information being released by CRIT and its cohorts is being released in a controlled

and manipulative manner - to get this passed with little objection from CRIT members and its surrounding communities, who would be the ones suffering the consequences of any actions to move our water off the reservation, never reaching us.

Thank you for your consideration.

Most Sincerely,
Amber Van Fleet
CRIT Tribal Member