The Colorado River Indian Tribes

Public Meeting #1
December 7, 2020

Public Meeting #2
December 10, 2020
• The Colorado River Indian Tribes (CRIT) includes members with four tribal affiliations:
  • The Mohave
  • The Chemehuevi
  • The Navajo
  • The Hopi
    • Learn more by viewing “In Our Own Voice” at critfilms.org
• There are currently about 4,500 Tribal members, and that number is increasing steadily.
History

• Reservation lands were originally occupied by the Mohave people (“Aha Makhav” – The Water People)
• The Mohave and Chemehuevi have inhabited the area on either side of the Colorado River for millennia
• The River serves as the life-sustaining religious, cultural and economic focal point of the CRIT
The Colorado River Indian Reservation
CRIT Decreed Water Right

- The CRIT have water rights quantified and decreed by the U.S. Supreme Court in *Arizona v. California* (Arizona v California, 373 U.S. 546, 1963; See 2006 Consolidated Decree)
  - This includes water rights in Arizona and California
  - The proposed federal legislation only affects those water rights decreed for use in Arizona

- The Decree provides that in Arizona, CRIT’s water allocation is measured by (i) diversions [of 662,402 af] or (ii) consumptive use required for irrigation of [99,375 acres] and for satisfaction of related uses, whichever of (i) or (ii) is less.

- The CRIT decreed water is a present perfected water right with priority dates of 1865, 1873, and 1874 for the lands in Arizona.
The ‘Ahakhav Habitat Preserve

- Restored, operated and maintained by the Tribes
- The Tribes participate in the Multi-Species Conservation Program
  - 1,253 acres of native vegetation
  - 250 acres of aquatic habitat
‘Ahakhav Native Plant Nursery

- The Preserve includes a native species plant nursery

- The nursery supplies trees and other plants for riparian restoration throughout the Lower Basin
‘The Achii Hanyo Native Fish Hatchery

- Sixty ponds provide approximately 100 acres of rearing area

- Razorback Sucker and Bonytail Chub – both endemic to the Basin are raised at Achii Hanyo
Tribal Priorities and Objectives: Confirmed by Referendum in January 2019

Fully utilize the CRIT’s water rights for tribal economic sustainability in order to provide improved governmental services, including health care, education, elder programs and law enforcement on the Reservation.

• Maintain an on-Reservation agricultural economy with 70,000–80,000 acres in production
• Improve the irrigation water efficiencies for the BIA irrigation project to maximize the use of our water allocation on the reservation
• Implement a rotational fallowing program to make up to 150,000 AF/Y of reduced consumptive use available for off-Reservation uses
• Protect the life of the River
Benefits for Arizona

• Our water right is a first-priority water right that is not going to be shorted
  • The federal legislation will permit us to maintain the priority for off-reservation uses
• Our water is mainstream water with the same water quality as CAP water
  • Additional or different treatment systems will not be required to use CRIT water
• This is not a “buy & dry” situation
  • CRIT will maintain the existing ag acreage on the reservation as required by the CRIT Referendum
  • Improved efficiency of the irrigation project will permit a larger rotational fallowing program
  • All revenue from leasing will stay on the River and in the River communities
Next Steps

• We look forward to hearing your comments and will work with ADWR to address them

• We will be working with the Arizona congressional delegation to introduce legislation and get it approved Congress

• Thank you for your interest and in your participation today. We hope you will support this effort
Thank you for participating.

CRIT website: https://www.crit-nsn.gov/
Learn more about CRIT: https://critfilms.org

ADWR website: https://new.azwater.gov/public-notice/CRIT

BOR LC website: https://www.usbr.gov/lc/
Calculations for CU and Diversion Reductions
Colorado River Indian Reservation

Tom Ley, PhD
Natural Resources Consulting Engineers
Consultant for the Colorado River Indian Tribes
Pilot System Conservation Program (PSCP)

- Bureau of Reclamation established the PSCP program
  - Funded by Reclamation, CAWCD, MWD, SNWA, Denver Water
    - EDF joined the Funders Agreement in 2018 and contributed thereafter
  - Purpose was to test conservation activities and measure the effect on elevations in Lake Powell and Lake Mead
- CRIT has participated in this program
  - Oct 1, 2016 – Sept 30, 2018 – Fallowed 1,591 acres for 2 years, resulting in 17,144 AF (8,572 AF/year) of reduced consumptive use left in Lake Mead
  - Oct 1, 2018 – Sept 30, 2019 – Fallowed 1,884 acres for 1 year, resulting in 10,697 AF of reduced consumptive use left in Lake Mead
  - Jan 1, 2019 – Dec 31, 2019 – Fallowed 3,705 acres for 1 year, resulting in 17,488 AF of reduced consumptive use left in Lake Mead
CRIT Participation in DCP

• The CRIT played an integral role in the Intra-Arizona Drought Contingency Planning negotiations
  • CRIT proposed to fallow historically-irrigated farmland sufficient to create a reduction of 50,000 AF/Y in consumptive use to be left in Lake Mead
  • CRIT would create a total reduction of 150,000 AF in consumptive use over three years
  • This fallowing project would use the verification methodologies that proved successful during the PSCP
  • Any reduced consumptive use exceeding 50,000 AF would be used to create ICS

• The CRIT’s conservation efforts from PSCP and three years of DCP will have raised the elevation of Lake Mead by almost 3 feet
### Summary of CRIT System Conservation & ICS for 2020

<table>
<thead>
<tr>
<th>Unit</th>
<th>Name</th>
<th>Time Period</th>
<th>Max. Net Irrigated Acreage</th>
<th>Ave. Cropping Pattern</th>
<th>Total Net Consumptive Use</th>
<th>Net Consumptive Use Proration</th>
<th>Decrease Reduction Proration</th>
<th>Total Diversion Reduction</th>
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</thead>
<tbody>
<tr>
<td>6627</td>
<td>MTA Farms</td>
<td>2014-18</td>
<td>1884.0</td>
<td>50% alfalfa 20% Sudan grass 15% alfalfa 5% small grain 6% Bermuda (grass hay) 11% Sudan 21% Miscellaneus (onion, garlic, com, potato)</td>
<td>5.39</td>
<td>10,157</td>
<td>9,450.7</td>
<td>706.2</td>
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<tr>
<td>6908</td>
<td>Quail Mesa</td>
<td>2014-18</td>
<td>3704.6</td>
<td>55% alfalfa 5% small grain 9% Bermuda (grass hay) 11% Sudan 23% Miscellaneus (onion, garlic, com, potato) 1% Unknown</td>
<td>4.89</td>
<td>8,120</td>
<td>16,890.7</td>
<td>1,250.6</td>
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<tr>
<td>6693</td>
<td>MTA Farms</td>
<td>2014-18</td>
<td>1135.0</td>
<td>64% alfalfa 1% cotton 6% small grain 13% Bermuda (grass hay) 14% Sudan 21% Miscellaneus (onion, garlic, com, potato)</td>
<td>4.97</td>
<td>5,810</td>
<td>5,478.3</td>
<td>409.2</td>
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<td>CRIT Farms Victorio</td>
<td>2014-18</td>
<td>406.8</td>
<td>60% alfalfa 5% cotton 17% small grain 12% Bermuda (grass hay) 5% Sudan</td>
<td>65% alfalfa 20% cotton 18% small grain 4% Sudan</td>
<td>4.61</td>
<td>1,877</td>
<td>1,748.5</td>
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<td>CRIT Farms Finesun</td>
<td>2014-18</td>
<td>474.7</td>
<td>52% alfalfa 26% cotton 13% small grain 4% Sudan</td>
<td>79% alfalfa 19% cotton 6% small grain 5% Miscellaneus (onion, garlic, com, potato)</td>
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<td>3,951</td>
<td>2,743.4</td>
<td>202.2</td>
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<td>CRIT Farms CRIT II</td>
<td>2014-18</td>
<td>1220.7</td>
<td>79% alfalfa 19% cotton 6% small grain 5% Miscellaneus (onion, garlic, com, potato)</td>
<td>73% alfalfa 10% cotton 6% small grain 3% Miscellaneous (onion, garlic, com, potato)</td>
<td>5.04</td>
<td>6,247</td>
<td>5,812.4</td>
<td>434.3</td>
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<td>CRIT Farms MTA 7900</td>
<td>2014-18</td>
<td>465.8</td>
<td>50% alfalfa 7% cotton 7% Bermuda (grass hay)</td>
<td>50% alfalfa 7% cotton 7% Bermuda (grass hay)</td>
<td>5.50</td>
<td>2,562</td>
<td>2,383.8</td>
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<td>CRIT Farms Shafter Ranch</td>
<td>2014-18</td>
<td>439.5</td>
<td>69% alfalfa 30% cotton 7% Sudan</td>
<td>69% alfalfa 30% cotton 7% Sudan</td>
<td>5.02</td>
<td>2,206</td>
<td>2,052.0</td>
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<td>9035*** Rayner</td>
<td>2013-17</td>
<td>780.0</td>
<td>25% alfalfa 32% cotton 12% Bermuda (grass hay) 4% Sudan</td>
<td>25% alfalfa 32% cotton 12% Bermuda (grass hay) 4% Sudan</td>
<td>4.72</td>
<td>3,721</td>
<td>3,462</td>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>10,786</strong></td>
<td></td>
<td></td>
<td><strong>92,736</strong></td>
<td><strong>20,000</strong></td>
<td><strong>3,726</strong></td>
<td><strong>62,797</strong></td>
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</table>

* Based on Project overall average irrigation efficiency equal to 53.5%

** Based on Project CU Diversion ratio of 0.475 for 2018 using methodology designated in the LBRops ICS Exhibit S for CRIT.

*** Estimates in this table for 9035 are based on 2013-2015 ICS cropping data with linear move sprinkler area removed.

** Diversion reduction, an overall average irrigation efficiency for direct pumping from River equal to 60%
CRIT and Reclamation Verification

Fallowing Inspection July 2020

Headgate chained and locked so that water cannot be delivered to fallowed fields

Rayner Farms 2019 Stalk Shredder Maintenance work performed

Field No. 1536 (SE)

Field No. 2851 (SE)

LandSat 8 Imagery, Colorado River Irrigation Project, Level 2 Surface Reflectance Color Infrared Bands 5-4-3 Path 38, Rows 36-37, July 14, 2020
Overview of Proposed Legislation and CRIT-ADWR-US Agreement

Margaret J. Vick, JSD
Special Counsel to the Colorado River Indian Tribes
Why federal legislation?

- The CRIT water right is a decreed federal reserved Indian water right
  - It is a trust asset held by the United States for the benefit of the CRIT
- A federal statute enacted in 1792 prohibits the transfer of federal Indian trust assets without an Act of Congress (25 USC §177)
  - Congress has authorized the Secretary to approve other types of leases
- Tribal water settlement legislation for other tribes in Arizona includes an authorization for leasing
- The CRIT have water rights determined by the Supreme Court, not by settlement approved by Congress
What is being authorized?

• The CRIT are authorized to lease water, exchange water and store water underground (referred to as Water Agreements)
• The Secretary of the Department of Interior is authorized to approve the CRIT Water Agreements if they comply with the legislation and the Agreements
• The legislation only applies to the CRIT water allocated for use in Arizona
  • The CRIT Reservation also includes land and water rights in California that are not affected by this legislation
Requirements

• The water to be included in Water Agreements must be from a reduction in on-Reservation Consumptive Use
  • Water that has been used within the exterior boundary of the Reservation for a minimum of four of the five years immediately preceding the year of the Water Agreement
  • Water accounted for in the Reclamation Water Accounting Report as a verified reduction in Consumptive Use pursuant to another agreement shall be deemed to be Consumptive Use in the year in which the reduction occurred
    • For example: Consumptive Use reductions for the current System Conservation Agreement will count as CU in 4 of the previous 5 years if a Water Agreement for a lease is entered immediately following the termination of the System Conservation agreement.

• The recipient of CRIT water to be leased, exchanged or stored must use the CRIT water within the Lower Basin portion of the State of Arizona and in compliance with Arizona law
Other provisions:

- CRIT must enter an Agreement with ADWR and an Agreement with ADWR and the US prior to entering Water Agreements.
- CRIT water that is subject to Water Agreements shall retain its first priority within the Lower Basin.
- Recipients of CRIT water must use the water in compliance with Arizona law.
- CRIT may sell LTSC received from underground storage agreements.
- A Water Agreement cannot exceed 100 years but may be renewed.
- On-Reservation water use by allottees is protected.
- The Secretary shall ensure compliance with all environmental laws.
Agreement among CRIT-ADWR-US
Purpose of the Three-Party Agreement

• Consultation, cooperation and coordination
  • CRIT Water Agreements include the interests of three sovereigns: the CRIT, the State and the United States

• CRIT will provide the State and the United States with notice of a water agreement at least 60 days prior to execution including pertinent documentation (Section 4 (2))

• CRIT agrees to provide a technical memorandum that describes the on-reservation reduction in consumptive use and calculates corresponding diversion reductions (Section 4 (2))
Accounting for Leased Water

- Reclamation will account for water leased, exchanged or stored underground in the annual Water Use and Accounting Report.
- CRIT will not include the amount of the diversion reduction for any water to be delivered pursuant to a Water Agreement in the CRIT annual water order for delivery to the Reservation.
- CRIT will prepare and provide a report on or before April 15 of each year in which a Water Agreement is in effect that verifies the on-Reservation reduction in Consumptive Use equivalent to the amount of water made available for off-reservation use.
  - ADWR and the US will have access to information necessary to confirm the CRIT verification.
Enforceability

• CRIT provides a limited waiver of sovereign immunity for enforcement of this Agreement and the Agreement with ADWR and each Water Agreement will include appropriate enforcement mechanisms.

• Reclamation will document the point of diversion and account for all water delivered for off-reservation use as part of its responsibilities as Water Master for the Lower Basin.
Contact information

Please contact me with questions.

Margaret Vick, JSD
margaret.vick@mvicklaw.com
602.814.7666
Overview of the Colorado River Indian Tribes Agreement with the Arizona Department of Water Resources

Arizona Department of Water Resources
December 7, 2020
• The CRIT shall submit proposed agreements to lease, exchange or store water underground to the Director of ADWR for review 60 days prior to the execution of such agreements.

• The proposed agreements shall include among other things:
  • the method of accounting for the water subject to the agreement;
  • the location and purpose for the off-Reservation use of the CRIT water, including maps of the location of use;
  • the method for transporting the water to the end user; and
  • technical memoranda documenting the reduction in consumptive use in a volume equal to the amount of water in the agreement.
The Director’s review of an agreement to lease, exchange or store water underground is to ensure that:

- The agreement complies with the federal legislation, Arizona law applicable to the end user or storage entity, agreement between the CRIT, the Secretary and the State of Arizona, and the agreement between CRIT and the Arizona Department of Water Resources; and
- The agreement includes the requirement that the recipient is the end user or storage entity and will put the water to beneficial use in the part of the State of Arizona in the Lower Basin and not hold it for speculative purposes.
Written Comments

Deadline for written comments: January 8, 2021 at 5:00 PM MST

Please send comments to:

Arizona Department of Water Resources
Attn: Sharon Scantlebury
P.O. Box 36020
Phoenix, AZ 85067-6020
(602) 771-8472 (phone)
(602) 771-8687 (fax)
sscantlebury@azwater.gov

Website: https://new.azwater.gov/public-notice/CRIT