

2023 Resolutions

**Adopted by
The Membership of the
Colorado River Water Users' Association
("CRWUA")
at their Annual Business Meeting
on December 15, 2023
in Las Vegas, Nevada**

The Colorado River Water Users Association is a non-profit, non-partisan organization providing a forum for exchanging ideas and perspectives on Colorado River use and management with the intent of developing and advocating common objectives, initiatives,

Introduction to CRWUA's 2023 Resolutions

The membership of the Colorado River Water Users Association (“CRWUA”) annually update and adopt a comprehensive set of resolutions addressing the major issues and externalities affecting the sharing, use and further development of the Basin’s water supply. As the Colorado River is one of the most regulated rivers in the country, a complex set of state and federal statutes, regulations and judicial decrees, interstate compacts and an international treaty (collectively referred to as “the Law of the River”) govern the allocation and water management decisions affecting conservation storage, releases and uses made by the 40 million people who depend on the River for their water supply.

CRWUA’s resolutions are addressed to, among others, national, local and state governments and nongovernmental organizations. These resolutions advocate sound public policy positions to maximize beneficial consumptive use of the available water supply while appropriately conserving important environmental resources, promote storage to ameliorate drought conditions and support generation of electrical power at the many hydroelectric plants and federally constructed reservoirs in the River Basin and preserve the rights and prerogatives of the jurisdictions through which the 1200-mile long river flows. Collaboration and cooperation to accomplish mutually beneficial environmental restoration and necessary water development actions are encouraged in these resolutions; they emphasize the maintenance of long-established legal frameworks and water management tenets (including satisfaction of contractual water supply rights) affecting water supply certainty and dependability in the arid, desert country through which the River flows. The positions espoused by CRWUA’s resolutions support the continuation of basin-wide water quality improvement programs and environmental restoration programs to stretch the finite water supply available in the fastest growing region of the United States. In short, CRWUA’s resolutions address critical local, state, regional, tribal, national and international water supply issues.

The adopted resolutions reflect the consensus of the hundreds of diverse water users who gather from across the seven-state area (comprising one-twelfth of the United States land surface) each December at the annual CRWUA conference and have been doing so for more than sixty years. Each of these resolutions is in effect until the 2024 annual conference of CRWUA.

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COLORADO RIVER WATER USERS' ASSOCIATION

2023 RESOLUTIONS

I. DROUGHT

Resolution No 2023-1-Drought-Post-2026 Reservoir Operations

CRWUA urges the Secretary of the Interior to regularly consult with the Governors' Representatives from each Basin State and collaborate on the development of alternatives for Post-2026 operations, specifically on the development of a 7-State consensus alternative.

Resolution No. 2023-2-Drought-Drought Contingency Plans (DCP) Implementation

CRWUA supports the implementation of the DCPs and asks that the DOI and USBR ("Reclamation") continue to provide full support to the basin states for DCP implementation, including: assisting the Upper Division States in investigations into the feasibility of an Upper Basin Demand Management Program, assisting the Upper Division States in the preparation of a Drought Response Operation Plan Agreement (DROA) at the appropriate time, and providing guidance for integrating the Lower Basin Drought Contingency Operations into the existing operations of Lake Mead.

CRWUA strongly urges the Secretary to pursue full funding and support for the development of a Lower Basin program, or programs, to generate an additional 700,000 acre-feet of Colorado River System water for an average of 100,000 acre feet per year over the term of the Lower Basin DCP and funding for additional contributions.

Resolution No. 2023-3-Drought-Supplemental Environmental Impact Statement

CRWUA urges Reclamation to work with the basin states and Tribes to finalize the Supplemental Environmental Impact Statement with a preferred alternative that protects critical elevations through the expiration of the 2007 Interim Guidelines.

Resolution No. 2023-4-Drought-Climate Change

CRWUA urges all federal agencies to consider the impacts of climate change in all aspects of its water resources management and planning to assure the continued reliability of the Colorado River water supply.

Resolution No. 2023-5-Drought-Augmentation and System Conservation

CRWUA urges the Federal Government to assist the Basin States, consistent with the terms of the DCPs, and the Colorado River Basin Tribes Partnership, in developing and implementing other voluntary plans and projects to augment the water supply of the

Colorado River. These plans and projects should have as their goal to initiate efforts to increase the long-term dependable water supplies of the Colorado River system by at least one million acre-feet per year by 2050.

Resolution No. 2023-6-Drought-Management of Lower Colorado River Water Supplies

CRWUA urges the United States to make necessary modifications to the Yuma Desalting Plant (“YDP”) and to make sufficient resources available to bring the YDP into full operation in the shortest possible time.

CRWUA urges the United States to spend funds to repair Senator Wash and reduce excess flows to Mexico.

CRWUA urges the United States to explore and implement additional storage and related infrastructure projects to reduce losses in the Lower Basin.

CRWUA urges the United States to excavate sediment accumulated behind Laguna Dam.

Resolution No. 2023-7-Settlement of Indian Reserved Rights

CRWUA supports the settlement of Indian reserved water rights by negotiation or agreement, recognizing that:

1. Settlements should result in the least possible disruption of existing water uses and the firm water supplies required to meet the long-term needs of the reservation inhabitants and to establish lasting tribal economies.

2. The achievement of these objectives requires federally funded water projects designed to ensure that all of the tribal water needs in the subject basin or watershed are met.

3. Appropriate participation of the federal, state, tribal and local governmental entities and non-Indian water users in the settlement process is required for the success of any negotiated settlement.

4. Any water rights settlements that have been approved by the respective parties should be immediately and fully funded to implement their terms within the specified timeframes. The Federal Government must take advantage of existing funding authorizations; such as Title VI, Emergency Fund for Indian Safety and Health, of P.L. 110-293, by complying in a timely manner with Congressional mandates and budgeting funds, while continuing to explore and develop new creative solutions to fund Indian water rights settlements. CRWUA commends Congressional creative mandatory funding mechanisms for the four Indian Water Rights Settlements and the Navajo Gallup Water Supply Project included in P.L. 111-291, the Claims Resolution Act of 2010. Additionally,

CRWUA commends Congress for appropriating \$2.5 billion, in 2021, for the Indian Water Rights Settlement Completion Fund in the Infrastructure Investment and Jobs Act (P.L. 117-58). Congress should develop a permanent funding mechanism for future water rights settlements.

5. Negotiation and implementation teams possessing the requisite technical, legal and political expertise should be appointed by the Federal Government and must actively participate in tribal water settlement negotiations to facilitate informed water rights decisions being made by all parties. Sufficient financial resources must be made available by the Federal Government to allow settlement and implementation negotiations to move forward.

II. INFRASTRUCTURE

Resolution No. 2023-8-Infrastructure-Aging Infrastructure

CRWUA urges the continued support of aging infrastructure funding through WaterSMART grants, the Aging Infrastructure Account, and other funding programs and opportunities such as the 2021 Infrastructure Investment and Jobs Act.

The Bureau of Reclamation should continue its efforts to obtain such appropriations and Congress should continue to appropriately fund these initiatives in future fiscal years.

Resolution No. 2023-9-Infrastructure-WaterSMART Initiative

CRWUA supports the purposes, strategies and programs of the Department of the Interior's WaterSMART Initiative. Aspects of the previous Water 2025 and Water for America programs have been incorporated into the WaterSMART (Sustain and Manage America's Resources for Tomorrow) Initiative. This initiative reflects the Department's efforts to foster sustainable water strategies to assist local communities in stretching water supplies and improving water management. Congress should appropriately fund this initiative in future fiscal years.

Resolution No. 2023-10-Infrastructure-Maintain Financial Stability of the Upper Colorado River Basin Development Fund

CRWUA urges Reclamation and the Western Area Power Administration ("Western") to implement additional cost-cutting measures to improve the status of the Upper Colorado River Basin Fund and stabilize the Colorado River Storage Project ("CRSP") power rate. Reclamation and Western should work in partnership with CRSP customers to develop an operational financial and rate-setting strategy to address hydropower impacts associated with the effects of recurring drought in the Basin, create a sustainable cash flow for the Basin Fund and maintain a viable CRSP power rate.

CRWUA urges the passage of federal legislation to create a mechanism to allow the appropriation of funds to Reclamation and Western to ensure sufficient funding for CRSP operations and other required annual funding obligations.

III. SPECIES, ENVIRONMENT, AND CLEAN WATER

Resolution No. 2023-11-Species, Environment, Clean Water - Endangered Species Act

Recognizing that the purpose of the federal Endangered Species Act (“ESA”) is to conserve and recover listed species in a cost-effective and timely manner and to maintain and manage the ecosystems upon which threatened and endangered species depend, CRWUA urges the administration of, and legislative amendments to, the federal ESA to:

1. Implement the Congressional policy that federal agencies shall cooperate with state and local agencies, including tribal agencies, in resolving water resource issues in concert with conservation of endangered species by assuring applicant status to water contractors and water rights holders, and increasing their role in Section 7 consultations and other ESA decision processes, such as listing decisions, critical habitat designations, recovery planning, Habitat Conservation Plans and Safe Harbor agreements.

2. Recognize and protect property rights and water rights.

3. Fairly treat property owners and water right holders.

4. Minimize social and economic impacts.

5. Use sound science in concert with clear and objective scientific standards for listing of species and designation of critical habitat.

6. Provide positive incentives to conserve listed and declining species, including statutory provisions for:

- Assurances – “no surprises” for non-federal stakeholders affected by federal agency Section 7 consultations.

- Ecosystem-based conservation plans.

7. Ensure that the Federal Government complies with applicable state laws and regulations regarding water resources and water management in implementing consultation and permit conditions through the administration of the ESA.

8. Continue appropriation of cost-sharing funds by Congress and the legislatures of the States of Colorado, New Mexico, Utah, and Wyoming for the Upper Colorado River Endangered Fish Recovery Program, and the San Juan River Basin Recovery Implementation Program.

9. Adequately fund implementation of the Lower Colorado River Multi-Species Conservation Program by Congress, the legislatures of the Lower Colorado Basin States and other program participants.

10. Adequately fund U.S. Fish and Wildlife Service and other federal agency participation in state and local endangered species recovery programs.

11. Proactively address conflicts involving threatened and endangered species arising from additional stressors on the limited Colorado River water supply, including those caused by natural or regulatory drought, increasing demands, and reductions in flow through water conservation or contributions to Colorado River system reservoirs.

Resolution No. 2023-12-Species, Environment, Clean Water – Clean Water Act

The Clean Water Act (“CWA”) should be utilized only to regulate the discharge of pollutants to waters of the United States. The CRWUA urges:

1. Section 101 (g) of the Act should be reaffirmed as applying to all sections and all programs under the Clean Water Act. The CWA and any amendments thereto shall not directly or indirectly create a federal water quality law or program which supersedes, abrogates or impairs state water allocation systems or compacts and rights to water created and managed thereunder.

2. The CWA should not be expanded, construed or applied to create a national recreational, cultural, historical, ecological, habitat, aesthetic, instream flow, or land use law or program, or otherwise be used to regulate anything other than the protection of designated water body uses and the control of point and nonpoint pollutant discharges.

3. The purpose and need for water development projects proposed by states, tribes or other local governmental subdivisions should be defined by the project sponsor.

4. State certification requirements under Section 401 of the CWA should not be used directly or indirectly to control activities which do not result in a discharge of pollutants.

5. States and tribes with treatment as state authority should be allowed to develop and administer water quality standards appropriate for ephemeral and/or effluent-dominated streams taking into account (I) the intermittent nature and other physical

limitations of such streams, (ii) the net environmental benefit associated with the continued discharge of water to such streams, and (iii) the need to protect downstream beneficial users. Congress and EPA should recognize the value of water reuse and increased instream flow associated with reclamation and reuse projects.

6. EPA should defer to state classification for intrastate bodies of water, state-established water quality standards for the protection of such classifications, and other aspects of state implementation of the CWA.

7. States and tribes with treatment as state authority should exercise primary authority in meeting the requirements of Section 303(d) of the CWA, with specific reference to:

- the identification of impaired water bodies;
- the prioritization of impaired water bodies;
- the establishment and implementation of total maximum daily loads (“TMDLs”); and,
- the selection of appropriate mechanisms for addressing non-point sources of pollutants.

8. The concept of “navigability” as is currently in the CWA must remain intact, with the continual recognition of (i) the constitutional and statutory limitations on the scope of federal jurisdiction and (ii) due deference to state and local authority.

9. The identification and implementation of any anti-degradation policy including but not limited to the designation of outstanding natural resource waters shall be a state and or tribal prerogative.

10. Water conservation and water use efficiency measures should be addressed separate and independent of the CWA so that such measures may be evaluated on their own merits rather than tied to permit or grant and loan programs associated with the elimination of pollutant discharges under the CWA.

11. No provision of the CWA should allow a state or Indian tribe to apply its water quality standards in such a fashion as to (i) supersede, impair, or abrogate the water allocation system of another state or tribe or waters decreed thereunder, or (ii) cause an unreasonable economic burden to be placed upon such other state or tribe where that state or tribe has ensured the establishment of classifications and standards for waters within its jurisdiction and such standards are being appropriately enforced.

12. A Good Samaritan provision should be adopted which allows for the prompt voluntary cleanup of abandoned mine drainage without fear of unwarranted liability attaching to such actions.

National Pollution Discharge Elimination System (“NPDES”) Permits:

13. EPA’s adoption of a Pesticide General Permit for NPDES compliance for the use of materials approved by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act will reduce the cost and time required for most applicators to comply with the CWA as compared to an individual permitting process.

14. Ditches, canals and off-river storage, and other man-made features used in operation of public water and wastewater systems should not be classified as waters of the United States for regulatory purposes.

15. The discharge of water from a water transfer that conveys or connects to waters of the United States without subjecting the transferred water to intervening industrial, municipal or commercial use should not require an NPDES permit under Section 402 of the CWA. The EPA should not rescind, reconsider or change its rule to this effect. States should determine the best method to control, if necessary, pollutants contained in transferred water, including non-point source control methods. Use of water for power generation in a hydroelectric facility in the course of such a water transfer should not be considered an intervening industrial, municipal or commercial use for NPDES permitting purposes.

Dredge and Fill Permits:

16. The EPA and the U.S. Fish and Wildlife Service should establish guidelines and objective measures for mitigation, and defer to the Corps of Engineers on matters of engineering, economics, flood control and other areas within the Corps’ expertise.

17. States and tribes should be fully consulted and engaged in rulemaking regarding jurisdiction of the CWA. Waters of the United States should be defined for regulatory purposes consistent with Supreme Court opinions and Congress’ intent under the CWA. Tributaries, adjacent waters, or other waters should not be determined jurisdictional unless they clearly directly or indirectly affect the chemical, physical, and biological integrity of traditional navigable waters, interstate waters, the territorial seas or impoundments of waters of the United States (CWA (a)(1) through (a)(4) waters.)

Non-Point Source Pollution:

18. The CWA should encourage necessary, cost-effective and reasonable voluntary measures to control non-point source discharges including the use of best management practices (“BMPs”) and pollutant trading.

19. Non-point source controls should be integrated to the extent determined appropriate by state and local entities with watershed management programs designed to achieve overall progress towards water quality objectives in that watershed.

Federal Mandates:

20. The CWA should allow for adequate phase-in time for new limitations or standards so as not to impose unnecessary or substantial hardships on regulated entities or their constituents unless dictated by substantiated societal health and safety considerations.

21. Actions required by the CWA should be supported by adequate federal funding.

22. No private property should be taken under the CWA without just compensation to the owner, as required by the Fifth and Fourteenth Amendments to the Constitution of the United States.

Resolution No. 2023-13-Species, Environment, Clean Water – Invasive Species Management

Invasive species are a significant national problem affecting, among others, water users across all seven of the Colorado River states. CRWUA urges:

Continued funding and implementation of measures to increase private, local, state, tribal and federal land managers’ capabilities for on-the-ground control of invasive species. In the Colorado River Basin, efforts to control and eradicate salt cedar (Tamarisk) should continue and be supported with appropriate funding. Areas of salt cedar that have been defoliated by the tamarisk beetle should be revegetated appropriately.

Enforcement of existing laws to further discourage the import, transport, and introduction and cultivation of potential invasive species and to penalize those violating these laws with fines and imprisonment more appropriately recognizing the harm and clean-up costs associated with unlawful actions.

Congress should add protections for the operation of public water systems in existing laws related to nuisance or invasive species, including the Lacey Act so that the

infestation of interstate water bodies by invasive species does not adversely affect the availability of public water supplies.

Additional and more effective working partnerships among and between federal, state and tribal agencies, regional and local governments, and individual citizens that result in timely, efficient and cost-effective programs for education, detection, monitoring, control and eradication of invasive species.

Accelerated research and development of early detection and rapid response mechanisms to achieve cost-effective control and eradication methodologies.

Develop, adopt, and implement an invasive species control plan for the Western United States to monitor, rapidly detect and stop the spread of invasive species.

Adopt and implement the Quagga-Zebra Mussel Action Plan for Western U.S. Waters prepared by the Western Regional Panel on Aquatic Nuisance Species for the Aquatic Nuisance Species Task Force.

Resolution No. 2023-14-Species, Environment, Clean Water – Colorado River Salinity Control

CRWUA urges continued funding and implementation of measures to control the salinity of the Colorado River.

CRWUA urges Reclamation to continue operation of the Paradox Valley Unit (“PVU”) within acceptable pressure and seismic parameters to reduce salinity impacts as Reclamation works with the Basin States to develop and implement a long-term alternative to current PVU operations as quickly as practical. Reclamation should also continue to work on other opportunities for mitigation of salinity impacts to the Colorado River.

The Administration should request, and Congress should provide, sufficient funding for the Colorado River Basin Salinity Control Program.

Resolution No. 2023-15-Species, Environment, Clean Water – Response to Mine Spills in the Colorado River System

CRWUA urges Congress to appropriate sufficient funding to allow the EPA to investigate and address the sites on the national Priorities list in the Colorado River Basin.

Resolution No. 2023-16-Species, Environment, Clean Water – Mitigating Water Quality Impacts due to the Uranium Mill Tailings Pile Near Moab, Utah

CRWUA urges Congress to appropriate sufficient funding to allow the Department of Energy (“DOE”) to continue to relocate the Atlas Corporation’s uranium mill tailings pile near Moab, Utah, away from the Colorado River and complete the project by 2030.

IV. COLORADO RIVER DELTA AND BASIN

Resolution No. 2023-16-Colorado River Delta and Basin – Colorado River Delta

The Federal Government to use the following criteria to guide discussions concerning the Colorado River Delta:

- Each of the water apportionments among the Basin states must remain certain and unimpaired.
- Any proposal to manage or deliver water for any purpose in the Colorado River Delta must be undertaken pursuant to the Law of the River, and must not enhance, diminish, or abrogate any provision thereof, particularly the 1944 Treaty between the United States and Mexico.
- Any proposal to manage water and other natural resources for environmental purposes in the Delta involving the United States should be consistent with and support the habitat restoration and maintenance goals of the Lower Colorado River Multi-Species Conservation Program. Protected species that utilize aquatic and riparian habitat in both countries may benefit from cooperative efforts to protect the Delta environment.
- Any action to assist in improving the environment in the Delta will require study and innovative solutions involving conservation, improved water management, and non-water related actions.

The Federal Government should communicate closely with and encourage the participation of each of those states in addressing issues of mutual interest between the United States and Mexico concerning the Colorado River Delta

Resolution No. 2023-17-Colorado River Delta and Basin – Minute 323 of the International Boundary and Water Commission

CRWUA urges Congress of the United States to continue to appropriate funds to the Department of the Interior needed to honor the terms and commitments made within Minute No. 323.

CRWUA urges Congress to continue to appropriate funds for the pilot projects authorized consistently with the Contributed Funds Agreement.

CRWUA requests that the United States engage with Mexico, through the International Boundary and Water Commission (IBWC), to develop a successor Minute to Minute No. 323, and requests that Basin States' representatives participate in formal meetings with Mexico, which was essential to the development of previous Minutes.

V. HYDROELECTRIC POWER

Resolution No. 2023-18-Hydroelectric Power – Hydroelectric Power is Renewable Energy

Congress should recognize hydroelectric power as a qualifying renewable energy for the purposes of national energy policy and legislation.

Resolution No. 2023-19-Hydroelectric Power – Western Area Power Administration

CRWUA urges the Secretary of Energy to work with existing customers before imposing changes in the way the Western Area Power Administration manages and operates its system and rate structure. In particular, hydropower customers should not bear increased costs incurred for the benefit of other power generators or power users.

Resolution No. 2023-20-Hydroelectric Power – Reclamation's Water and Power Facilities

Reclamation must not remove, bypass, or breach federal dams in the Colorado River Basin, nor restrict or abrogate state and/or tribal rights to manage or control their water resources while respecting the federal role in managing interstate waters.

In order to avoid huge financial impacts associated with performing maintenance that was deferred or making future repairs on an emergency basis, Congress should recognize and appropriate requisite funding to maintain aging, critically important water and power infrastructure in the Colorado River Basin and across the West. Reclamation should focus efforts on, and dedicate increased funding to, maintain existing water project infrastructure, establish a more proactive infrastructure rehabilitation program, and develop additional storage capacity. Water infrastructure is every bit as important as transportation and energy infrastructure.

Water service contracts should be renewed for the same quantity of supply as has been historically beneficially used and should provide the same availability to water users as has been historically enjoyed. Water service contracts should be renewed for the maximum allowable term.

Reclamation should manage reservoir conservation storage in each of the Colorado River system reservoirs in accordance with the laws, operating criteria, and guidelines governing each respective reservoir's operation. Reservoir storage should be managed to avoid or minimize shortages of water supply for water contractors. Furthermore, Reclamation should exercise its maximum authority under existing law to enter into contracts for the storage of non-project water in excess project space and project water in non-project space, including water for irrigation, municipal and industrial purposes, and for the use of excess capacity in project conveyance and distribution facilities for conveyance of non-project water.

Project benefits should not be reallocated without the consent of project beneficiaries. Beneficiaries should not pay for project benefits reallocated to another use. Changes in project operations should not impair existing contracts or water rights under federal or state law.

All reservoirs and dams on the Colorado River should be operated in compliance with applicable law and authorized project purposes. Operational changes to benefit recreation, fishery or environmental mandates should minimally impact hydropower production. The Federal Government, not existing water or power contractors, should pay for environmental enhancement and mitigation required by federal law. The Federal Government should also pay the cost of power to replace reduced hydropower generation due to operational changes for recreation, fisheries, or the environment.

Reclamation should continue to implement the measures identified in its Managing for Excellence action plan and concluding report. The action plan was issued in response to the National Research Council's Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation report.