

**COLORADO RIVER WATER USERS ASSOCIATION (CRWUA)  
2025 Resolutions & Position Statements**

**I. DROUGHT**

**Resolution**

**Post-2026 Reservoir Operations  
Resolution No 2025-1-Drought**

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

**Position Statement**

No position Statement

## **Resolution**

### **Drought Contingency Plans (DCP) Implementation**

#### **Resolution No. 2025-2-Drought**

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 and implementation of a Drought Response Operation 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 continue pursuing 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.

## **Position Statement**

### **Drought Contingency Plans Implementation**

#### **(Resolution No. 2025-2-Drought)**

The Basin States have two (2) drought contingency plans: The Upper Basin Drought Contingency Plan (“Upper Basin DCP”), affecting operations above Lee Ferry, and the Lower Basin Drought Contingency Plan (“Lower Basin DCP”), affecting operations below Lee Ferry. Both the Upper Basin DCP and the Lower Basin DCP are supplemental to and in furtherance of the goals of the 2007 Guidelines, and they are intended to remain in effect only for the Interim Period.

Mexico is also participating in water scarcity planning and collaborative measures that are consistent with and correspond to measures in the Lower Basin DCP, through the adoption of Minute 323 to the 1944 Water Treaty, “Extension of Cooperative Measures and Adoption of a Binational Water Scarcity Contingency Plan in the Colorado River Basin.” Additionally, the Basin States, along with other federal representatives and other water agencies in the Colorado River Basin, executed a Memorandum of Agreement on the Implementation of Minute No. 323 and 2017 Interim Operating Agreement, again acknowledging, among other things, the unique and necessary role of the state and local representatives in management and operation of the Colorado River Basin.

Minute 323 includes a Binational Water Scarcity Contingency Plan for Mexico to participate in the equivalent of drought contingency planning if a Lower Basin DCP is put into effect in the United States. The Binational Water Scarcity Plan is intended to allow

Mexico to undertake water savings in parity with U.S. savings for drought contingencies which would be recoverable under specifically improved reservoir conditions.

The Basin States' work on implementing both the Upper Basin DCP and Lower Basin DCP continues. CRWUA supports this effort and asks that the Department of Interior and Reclamation continue to provide full support of this process.

## **Resolution**

### **Supplemental Environmental Impact Statement**

#### **Resolution No. 2025-3-Drought**

CRWUA urges Reclamation to continue to work with the basin states and Tribes to implement the *Supplement to the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead Record of Decision* dated May 6, 2024 through 2026.

CRWUA further urges the Secretary to pursue full funding and support for programs developed to implement the Record of Decision.

#### **Position Statement**

No Position Statement

## **Resolution**

### **Climate Change**

#### **Resolution No. 2025-4-Drought**

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.

### **Position Statement**

#### **Impacts of Climate Change (Resolution No. 2025-4-Drought)**

Climate change-induced impacts to the Colorado River must be recognized with continued shortage declarations on the Colorado River. Science shows climate change will continue to affect global temperatures, sea levels, precipitation patterns, snowpack, and other related water resource factors, and will have a corresponding impact to Colorado River runoff. CRWUA urges the Bureau of Reclamation, each of the Basin States' water management and water development agencies, and each water purveyor within the Basin to implement projects, including increased system capacity to reliably provide water supplies to areas of critical demand, in accordance with applicable law.

## **Resolution**

### **Augmentation**

#### **Resolution No. 2025-5-Drought**

CRWUA urges the Federal Government to assist the Basin States, consistent with the terms of the DCPs, the Colorado River Basin Tribes Partnership and the 1968 Colorado River Basin Project Act, 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 augment by 2050 the long-term dependable water supplies of the Colorado River system by at least one million acre-feet per year.

### **Position Statement**

#### **Augmentation of Colorado River Water Supplies (Resolution No. 2025-5-Drought)**

CRWUA fully supports the Basin States' proposal to accomplish a significant amount of water supply increase (e.g. augmentation) in the Colorado River Basin. The Seven Colorado River Basin States' April 23, 2007 "Agreement Concerning Colorado River Management and Operations" contains a mutual commitment by the Parties to:

"...diligently pursue interim water supplies, system augmentation, system efficiency and water enhancement projects within the Colorado River System. The term 'system augmentation' includes the quantifiable addition of new sources to the Colorado River Basin, including importation from outside the Basin or desalination of ocean water or brackish water... The term 'water enhancement' includes projects that may increase available system water, including cloud seeding and non-native vegetation management. Due to the critical importance of implementing these projects in reducing the potential for shortages, the Parties shall continue to jointly pursue the study and implementation of such projects, and to regularly consult on the progress of such projects."

Any system conservation, enhancement, and/or augmentation program funded by the Federal government, the Basin states and water interests should include increasing:

1. Voluntary compensated use reductions.
2. Weather control and cloud modification.
3. Forest health restoration and management.
4. Phreatophyte management.
5. Improved agriculture practices.

6. Enhanced re-use.
7. Supply importation.
8. Desalination.
9. Distribution system loss reduction.
10. System loss reduction.
11. Storage capacity.

## **Resolution**

### **Management of Lower Colorado River Water Supplies**

#### **Resolution No. 2025-6-Drought**

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 secure and spend funds to expand existing storage to 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 and Imperial Dam.

## **Position Statement**

### **Management of Lower Colorado River Water Supplies**

#### **(Resolution No. 2025-6-Drought)**

Additional storage is needed for the beneficial use of Colorado River water. The continuing multi-year drought in the basin has resulted in tremendous storage reductions in Lake Powell and Lake Mead. Regulatory storage added near the All-American Canal has provided operational flexibility to mitigate over-deliveries of water to Mexico in excess of the U.S Treaty obligation. Sediment removal from behind Laguna Dam provides additional storage capacity as well as environmental benefits from habitat restoration. Both projects have the potential to further reduce excess flows to Mexico.

### **Improving Management of Flows from Parker Dam**

Water released from Parker Dam flows to Imperial Dam; because Imperial Dam diversions are so large, it is more challenging to regulate flows below Parker Dam. Changes in weather conditions, water use orders, and inflows affect river management. Limited storage is available in Senator Wash Reservoir. This reservoir is designed for storage of over 12,000 acre-feet; however, operating restrictions limit storage to approximately 9,100 acre-feet.

The Warren H. Brock Reservoir has been constructed east of the Imperial Valley near Drop 2 of the All-American Canal with 8,000 acre-feet of storage. Benefits from the Warren H. Brock Reservoir include conserving reservoir system storage, improving river regulation and water delivery scheduling and providing opportunities for water conservation, storage and conjunctive use programs. This reservoir has saved approximately 50,000 acre feet per year since its construction.

In addition to the Warren H. Brock Reservoir, there is a need to restore other regulatory storage. Removal of sediment behind Laguna Dam permits additional storage and enhanced management of the river. Habitat restoration and enhancement within this project area is being implemented under the Lower Colorado River Multi-Species Conservation Program (“LCR MSCP”). The LCR MSCP has developed a plan for habitat restoration in the area behind the dam known as the Laguna Reach. The habitat restoration elements of the plan would create wetlands and riparian habitat in or parallel to the excavated channel.

### **Yuma Desalting Plant**

An average of approximately 135,000 acre-feet of drainage flows bypass the Yuma Desalting Plant (“YDP”) to Mexico every year due to its high salt concentration. This water is put into the Main Outlet Drain Extension and sent to the Cienega de Santa Clara – and is thus not delivered to Mexico as part of the United States’ annual treaty delivery obligation.

## **Resolution**

### **Settlement of Tribal Reserved Rights**

#### **Resolution No. 2025-7-Drought**

CRWUA supports the settlement of Indian reserved water rights by negotiation or agreement, including Congressional approval, 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 pursuant to water settlements.

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

4. Any water rights settlements that have been Congressionally approved 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.

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.

## **Position Statement**

### **Settlement of Indian Reserved Rights (Resolution No. 2025-7-Drought)**

Efforts to establish reserved Indian water rights will only be successful when the Federal Government is actively involved. Where the exercise of such water rights requires construction of infrastructure for water storage, transportation, and treatment, federal financial resources must be appropriated in a timely manner to implement these rights, and the Federal Government must be creative in finding funding solutions. Where the water will come from to fill reserved rights continues to be the subject of much debate.

Indian water right claims based on reserved water rights for federal reservations are established under the Winters Doctrine. Water rights adjudication by appropriate administrative or judicial process is normally used to recognize and enforce water usage rights among competing interests. This adjudication process is often long and cumbersome and involves making decisions about how to distribute water amongst competitive and conflicting claims. Settlement of Indian water rights claims through negotiations with all affected parties offers a more efficient, less costly means of resolving these disputes.

## II. INFRASTRUCTURE

### Resolution

#### **Aging Infrastructure and Modernization** **Resolution No. 2025-8-Infrastructure**

CRWUA urges Congress to continue to support aging infrastructure funding and additional funding for upgrading and modernizing Reclamation's infrastructure and other non-Reclamation infrastructure projects.

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

### Position Statement

#### **Aging Infrastructure and Modernization** **(Resolution No. 2025-8-Aging Infrastructure and Modernization)**

Reclamation facilities and existing infrastructure are on average fifty (50) years old, with some facilities being as old as one hundred (100) years. Aging infrastructure requires ever increasing maintenance and repair. Additionally, as hydrologic conditions change, infrastructure upgrades are needed to ensure the reliable delivery of water and power. An investment in water infrastructure is an investment in our nation, its future and its economy. The continued support of aging infrastructure funding and funding for modernization and upgrades through WaterSMART grants, the Aging Infrastructure Account, and other funding programs and opportunities such as the 2021 Infrastructure Investment and Jobs Act facilitates the maintenance, repair, and replacement of infrastructure to maintain operations and functionality of existing systems. 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**

### **WaterSMART Initiative** **Resolution No. 2025-9-Infrastructure**

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.

### **Position Statement**

#### **The Department of the Interior's WaterSMART Initiative (Resolution No. 2025-9-Infrastructure)**

The American West is the fastest growing region of the country and faces serious water challenges. The prolonged drought in the Western States, population growth in areas with existing water supply challenges and increased need for water for energy production purposes; are exacerbating the demand for water challenging traditional water management approaches. At the same time, historically "normal" rainfall and snowpack conditions in the West appear to be shifting due to climate change.

On February 22, 2010, Secretary Ken Salazar signed a Secretarial order establishing a new water sustainability strategy for the United States, known as WaterSMART. The "SMART" in WaterSMART stands for "Sustain and Manage America's Resources for Tomorrow." Its purpose is to secure and stretch water supplies for use by existing and future generations to benefit people, the economy and the environment; and to identify adaptive measures needed to address climate change and future water demands. This Initiative is aimed at improving water management by encouraging voluntary water banks; assisting local communities by partnering with non-federal stakeholders to develop incentives and best practices for implementing water conservation and wastewater recycling projects. As part of his order, Secretary Salazar announced that he is directing the Department of the Interior to increase available water supply for agricultural, municipal, industrial and environmental uses in the western United States by 350,000 acre-feet by 2012. In its October 2012 progress report, the Department announced that it had achieved cumulative water savings in excess of 500,000 acre-feet and had set a new goal of 730,000 acre-feet by the end of 2013. These efforts have continued, and since 2010, projects under the WaterSMART Program have achieved a total of 1,745,157 acre feet of water savings. CRWUA supports continuation of these efforts.

The Department of the Interior has an important role to play in providing leadership and assistance to states, Tribes and local communities to address competing demands for water. The WaterSMART Initiative commits the Department to pursue a sustainable water supply for the Nation by establishing a framework to provide federal leadership and assistance on the efficient use of water, integrating water and energy policies to support the sustainable use of all natural resources and coordinating the water conservation activities of the various Interior bureaus and offices. This Initiative envisions the Department's efforts will contribute to the development of domestic expertise in water-related technologies and sustainable water management practices, thereby enhancing U.S. competitiveness in providing solutions to worldwide water issues in the 21<sup>st</sup> century.

## **Resolution**

### **Maintain Financial Stability of the Upper Colorado River Basin Fund** **Resolution No. 2025-10-Infrastructure**

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 and operational experiments 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, experiments and other required annual funding obligations. These efforts should include innovative efforts to develop alternative funding streams to support Colorado River Basin programs.

## **Position Statement**

### **Maintaining Financial Stability of the Upper Colorado River Basin Fund** **(Resolution No. 2025-10-Infrastructure)**

The federal CRSP hydropower and delivery systems were authorized by Congress to provide a wide range of significant benefits to millions of citizens in the West, including:

1. Flood Control
2. Lake and stream recreation
3. Irrigation
4. Self-sustaining recreational trout fisheries
5. Municipal water supply
6. Economic development
7. River regulation
8. Fish and wildlife propagation and mitigation
9. Interstate and international compact water deliveries
10. Power generation and transmission

Funding for repayment of federal investment in the CRSP storage features and participating irrigation projects and the operation and maintenance of the CRSP facilities and staff of the U.S. Bureau of Reclamation (“USBR”) and the Western Area Power Administration (“Western”) is provided through power revenues maintained in the Upper Colorado River Basin Fund. A portion of the costs associated with the Colorado River Salinity Control Program, the Glen Canyon Dam Adaptive Management Program, the Upper Colorado

River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program are funded through the Upper Colorado River Basin Fund.

### **III. SPECIES, ENVIRONMENT, AND CLEAN WATER**

#### **Resolution**

#### **Endangered Species Act**

#### **Resolution No. 2025-11-Species, Environment, Clean Water**

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.

### **Position Statement**

#### **Endangered Species Act (Resolution No. 2025-11-Species/Environment/Clean Water)**

The Endangered Species Act of 1973 (“ESA” or “Act”) marked a culmination of federal legislative initiatives in the 20<sup>th</sup> Century to preserve plant and animal species considered endangered, including the Endangered Species Conservation Act of 1966 and the 1969 Endangered Species Preservation Act. Prior to the ESA, wildlife conservation measures were largely the responsibility of individual states. The ESA has been awaiting reauthorization since 1992. Many acknowledge the ESA is failing the public it is supposed to serve and the species it is intended to protect. Fixing the ESA is critical – for species, property owners and our nation’s economy, security and well-being.

#### **The Colorado River Water Users Association (“CRWUA”) Supports Re-Authorization and Necessary Reform of the ESA**

CRWUA supports the implementation, reauthorization and reform of the ESA to provide consistent and reasonable conservation of endangered species. The Act must produce results that balance species conservation and recovery with the needs of people. That this is possible is demonstrated by the cooperative conservation partnerships CRWUA members are already involved in, including the Upper Colorado River Endangered Fish Recovery Program, the Lower Colorado River Multi-Species Conservation Program, and the San Juan River Basin Recovery Implementation Program. We need a new 21<sup>st</sup> century ESA that is consistent with these cooperative efforts.

Recognizing the need to prioritize, CRWUA is focused on three goals: 1) increasing the role of the states and Tribes; 2) streamlining the Act; and, 3) increasing certainty and direct involvement for landowners and water users.

Reauthorization of the ESA must include reforms to strengthen the role of the states in listing decisions, critical habitat designations, recovery planning, habitat conservation plans, “safe harbor” agreements and more. Alternatives to the rigid, ESA-mandated listing and federal recovery planning regulations are desperately needed. Cooperative agreements providing authority for states, Tribes and involved entities to initiate threatened and endangered species conservation programs should be encouraged. These agreements should include provisions and incentives giving certainty to those who undertake conservation measures in exchange for incidental take authorizations. Cooperative species conservation actions, including candidate species conservation agreements, should be given preference in lieu of ESA species listings. The ESA should provide authority to initiate species conservation plans in advance of listing. If implemented, these plans should provide automatic incidental take permits upon subsequent listing as a means to provide meaningful landowner incentives – and thus enhance opportunities to avoid a species listing. More importantly, the ESA should authorize conservation plans that are focused on habitat and ecosystem conservation rather than being species-specific.

Increasing certainty for landowners and water users begins with a fundamental respect for existing law and rights. The notion the ESA “trumps” other existing law is of tremendous concern to all except those who seek to maintain cost-free land use control through species listing as an end in itself. The Act must be carried out in a manner consistent with other federal laws, authorities and purposes, including the trust responsibility owed by the United States to Tribes. The Act cannot abrogate, supersede, supervene or supplant the United States Constitution or the Bill of Rights. The Act cannot be used or construed to permit or justify the involuntary appropriation of property of others, including contractual rights in existence at the time of the species listing.

### **The ESA Does Not Create Federal Water Law or Federal Rights to Water**

The ESA should not be construed or used to impair, abrogate, supersede, amend or reallocate vested water rights granted by federal law or the respective states for beneficial uses; including the rights of contractors to use water pursuant to valid contracts with the Bureau of Reclamation (“Reclamation”). The same is true as to the rights of Tribes established by treaty, statute, settlement or decree and for water apportionments made by interstate compact or U.S. Supreme Court decree. Existing historical water uses and depletions and operation, maintenance and repair of existing water storage, diversion and conveyance facilities should be exempt from the ESA. The Federal Government should not acquire land or water, except on a willing seller/willing buyer basis consistent with applicable substantive and procedural law, nor should it impair the right to receipt and/or delivery of water within a Reclamation project under existing water storage, repayment or water service contracts.

## **Current Procedures for the Designation of Critical Habitat Create Disincentives for Species Recovery**

In 30-plus years of implementing the ESA, the United States Fish and Wildlife Service has found that the designation of critical habitat provides little additional protection to most species while consuming significant amounts of conservation resources and furnishing landowners with negative impressions. America's farmers, ranchers and private property owners have the most important role in saving endangered species as ninety (90%) percent of endangered species in the U.S. have habitat on private land. Research has shown that the current "up-front" and inflexible ESA critical habitat designation procedures have created disincentives for species recovery, rather than improving their plight.

A combination of factors has distorted the structure under which critical habitat was designed to function. The ESA currently requires agencies to designate critical habitat at the same time a species is listed as endangered or threatened. Designation of critical habitat should be made at or after the recovery planning stage, when there is sufficient information available to decide what habitat is essential for conservation of the species. Critical habitat designations should be made based on sound science and should be narrow, specific and precisely define the included areas. Areas of unoccupied habitat should be excluded unless sufficient information identifies it as truly essential for the species.

Areas covered by habitat conservation plans ("HCPs") that include measures for preservation of a protected species' habitat should automatically be excluded from critical habitat designations. No designation of critical habitat should occur within areas where an "ecosystem management approach" has been adopted to manage resources to facilitate species recovery and avoid listings. In these cases, the designation of critical habitat causes unnecessary, time-consuming, and costly review of existing management plans with no increase in the protection provided for endangered species. Providing statutory "no surprise" assurances for HCPs and Section 7 consultations affecting non-federal parties would encourage public acceptance and involvement in these permitting programs.

Critical habitat should not be designated until realistic, peer-reviewed economic analyses have fully evaluated the costs of species listing and critical habitat designation. The Federal Government must fully inform the public and other governmental entities of the social and economic costs and benefits of designating critical habitat. ESA administrative actions, including listing, critical habitat designations, and publication of recovery plans, should be taken only after compliance with the National Environmental Policy Act.

The development of recovery plans and the recovery of threatened and endangered species, including the provision of adequate funding, is a federal obligation, unless and until full partnership efforts are established. Recovery plans should identify:

- quantified goals, a recovery date target and the probability of recovery;
- critical habitat essential for conservation and recovery of the species;

- actions and realistic estimates of those actions' cost necessary for recovery; and,
- potential social and economic impacts associated with achieving recovery.

The ESA should unequivocally support artificially propagating populations of endangered species in order to achieve self-sustaining populations and encourage the designation of experimental non-essential populations to facilitate recovery efforts. Where competition between native species and introduced species is a significant factor, responsible artificial propagation may be the only means to recover a species.

### **Listing and Delisting Procedures Need Significant Improvements**

Listings, designation of critical habitat and recovery plan development often are not accompanied by adequate public notice and involvement. The ESA should provide more meaningful opportunities for landowners and citizen consultation and involvement. The public has a right to know whether it will be impacted due to actions implementing the ESA.

Decisions regarding the listing, protection and recovery of endangered species and designation of critical habitat should be based on adequate, verifiable, peer-reviewed, ground-proofed, scientific information subjected to public scrutiny. The Act should protect only those taxonomic groups that may be significantly different from other groups within the species.

Decisions to list or delist species, designate or rescind critical habitat, and approve recovery plans should be made by the Secretary of the Interior ("Secretary") in a timely manner, after independent review of the record, only after appropriate consultation with the governor or governors of the state or states impacted by the decision, affected Tribes, and after a public hearing in the affected area upon receipt of a petition therefore by an interested party.

Individuals or entities whose property or economic interests may be adversely impacted by ESA actions should have standing as parties in ESA litigation and should have "applicant" status in Section 7 consultations.

The Act should provide for periodic review of species listings, critical habitat designations, and recovery plans to determine if such actions continue to be necessary or appropriate for the continued existence of a species. An administrative process to evaluate the down-listing and delisting of species should be started when the quantitative goals and targets of a recovery plan are met. The Secretary should be given the flexibility to down-list or delist species along state geographic boundaries, when recovery goals within a state or regional recovery program consistent with the purposes of the ESA have been met.

### **Current ESA Funding is Inadequate to Accomplish ESA's Purposes**

ESA funding at the federal and state levels must increase significantly to address the growing list of threatened and endangered species. Existing levels of expenditures to meet the need to protect species and their habitat are inadequate, particularly as state and federal agencies increasingly assume ESA management activities and embrace ecosystem management strategies. Inadequate funding remains a tremendous impediment to the ESA and is the direct cause of burdens being unfairly placed on local communities and owners of private property.

### **Contractors In Reclamation Projects Should Be Granted Applicant Status in Section 7 Consultations**

The ESA provides “applicants” for federal permits or licenses with certain rights related to the Section 7 consultation process between the federal permitting/licensing agency and the Fish and Wildlife Service or National Marine Fisheries Service. Reclamation project contractors must be given recognition as “applicants” for any ESA Section 7 consultation that involves the operation of the project, regardless of whether that consultation involves the renewal or issuance of water service contracts.

Furthermore, the role of applicants in the Section 7 consultation process should be strengthened. Currently, the Section 7 process is treated as a consultation between two federal agencies that largely excludes input from affected non-federal parties. The exclusion of Reclamation project participants from direct involvement in such consultations only encourages their resort to judicial review of biological opinions as the only effective means to have their voices heard. Providing a direct role for Reclamation contractors would establish an improved consultation process with greater scientific and commercial data available that should improve the resulting biological opinions and reduce the need for litigation.

Congress declared that its policy is for federal agencies to cooperate with state and local agencies in resolving water resource issues in concert with conservation of endangered species (16 U.S.C. § 1531 (c)(2)). It is time for Congress to make this policy an enforceable right by water agencies to fully participate in Section 7 consultations alongside federal agencies.

## **Resolution**

### **Clean Water Act**

#### **Resolution No. 2025-12-Species, Environment, Clean Water**

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

### **Position Statement**

#### **Clean Water Act**

#### **(Resolution 2025-12-Species/Environment/Clean Water)**

The issue described in item 13 of the “NPDES Permits” section of Resolution 2020-16 has been the subject of a decade of litigation. The EPA had historically taken the position that pesticides and herbicides that are applied in accordance with the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”) were not pollutants subject to NPDES permit requirements of the CWA. In a decision issued in litigation consolidating challenges across the country, the Federal Sixth Circuit Court of Appeals ruled otherwise in *National Cotton Council v. EPA* (6<sup>th</sup> Cir. 2009) 553 F. 3d 927. In response to this ruling, the EPA finalized a general permit in June 2013 for the application of pesticides to waters of the United States. CRWUA supports EPA’s use of a general permit approach to NPDES compliance for pesticide applications to eliminate the time and cost required to obtain individual permits while allowing for the collection of data regarding how pesticide use may be affecting the nation’s water quality.

The issue described in item 15 of the “NPDES Permits” section of Resolution 2020-16 is also the subject of years of litigation. In response to lawsuits alleging that water transfers are subject to NPDES permitting requirements, the EPA adopted a rule in 2008 expressly exempting water transfers. 40 CFR § 122.3(i). The negative economic and social impacts of imposing an NPDES permit on water transfers could be extremely disruptive to the tens of millions of western residents who depend upon the extensive water infrastructure conveying water resources across the vast distances of the West. The EPA should leave the rule in place, and it should be affirmed by Congress.

Congress should preserve the existing limited exemptions from NPDES permitting provided by Section 402(l) of the Clean Water Act by reaffirming that discharges composed of irrigation return flows and discharges of storm waters not subject to permitting under Section 402(p) of the Act are exempt.

In any clarifying amendments to the Federal Water Pollution Control Act of 1972, federal jurisdiction over surface waters of the U.S. should not be expanded. Unfortunately, the EPA’s draft report on *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence*, (September, 2013 External Review Draft, EPA/600/R-11/098B), notice of which was published in the Federal Register at 78 Fed. Reg. 58536 (Sept. 24, 2013) (hereafter “Draft Report”) attempts to set aside this approach. The Draft Report served as the basis for a rule developed jointly by the EPA and the Army

Corps of Engineers to “clarify” Clean Water Act jurisdiction, including a description of the factors that influence connectivity and the mechanisms by which connected waters affect downstream waters, over all of the Nation’s waters and wetlands. The final rule has been stayed pending resolution of various federal court proceedings. The Colorado River Water Users Association points out the inappropriateness of, and expresses its strong opposition to, this effort by the EPA to broaden federal jurisdiction of the Clean Water Act by expanding the scope of waters of the U.S., including waters effectively regulated under state jurisdictions.

Congress should ensure that irrigated agricultural conveyance systems are not considered to be “Waters of the U.S.” and that traditional irrigation canal and drainage system management practices can continue free of federal oversight.

### **Position Statement of the Ten Tribes Partnership in Opposition to Resolution 2025-16 (Clean Water Act)**

The Ten Tribes Partnership appreciates the opportunity to provide these comments with respect to Resolution 2020-16 concerning the Clean Water Act. The users of the Colorado River water are directly affected by the implementation of the Clean Water Act; therefore, it is appropriate for CRWUA to express its position concerning that Act. However, the ten Tribal nations that comprise the Ten Tribes Partnership are fundamentally different than the water users that comprise the non-tribal membership of CRWUA. The Tribes are not only users of Colorado River water, they are sovereign entities with regulatory authority and responsibilities, and in some cases have been determined to be eligible by the U.S. Environmental Protection Agency to be treated as a state in order to implement provisions of the Clean Water Act. Therefore, the tribes have a significant interest in protecting their regulatory authority pursuant to the Clean Water Act.

The Tribes take issue with Resolution 2020-16 for the following reasons:

Paragraph 8 purports to oppose USEPA’s rule defining “Waters of the United States” as set forth at 79 Fed. Reg. 22188 (April 21, 2014), which could potentially diminish the scope of the Tribes’ regulatory authority.

*City of Albuquerque v. Browner*, 97 F.3d 415 (10<sup>th</sup> Cir. 1996), cert denied, 522 U.S. 965 (1997) upheld the right of tribes to establish water quality standards more stringent than federal standards and USEPA’s authority to require upstream National Pollution Discharge Elimination System dischargers to comply with the downstream tribal standards. The Browner decision also confirmed USEPA’s approval of tribal standards to protect cultural, historical, ecological, habitat, and aesthetic values, including ceremonial use. Instream flow protection is critical for tribes; therefore, the Ten Tribes Partnership cannot support Paragraphs 2 and 11.

For these reasons, the Ten Tribes Partnership is unable to support Resolution 2020-16.

## **Resolution**

### **Invasive Species Management**

#### **Resolution No. 2025-13-Species, Environment, Clean Water**

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.
- Additional 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.

- Continued implementation of the range of actions and initiatives included in *Safeguarding the West from Invasive Species – Actions to Strengthen Federal, State, and Tribal Coordination to Address Invasive Mussels*.
- Implement and fund non-bypass actions to address smallmouth bass proliferation in the Colorado River Basin.

CRWUA urges Congress to continue existing funding and secure additional funding as needed to meet the above recommendations, actions and initiatives.

## **Position Statement**

### **Invasive Management (Resolution No. 2025-13-Species/Environment/Clean Water)**

Invasive species are one of the most significant threats to native ecosystems in the nation. As defined by Federal Executive Order 13112 (1999), a species is considered invasive if it is not native to the ecosystem under consideration, and its establishment causes or is likely to cause economic, environmental or human harm. Large efforts are underway to fund, develop and implement early detection, monitoring, education, control, and eradication programs to control, manage and hopefully eradicate invasive plant and animal species. Many of the invasive species that are causing substantial damage were imported for ornamental landscaping, as a result of international commerce, from recreational activities, or by accident. Often these introduced species thrive and multiply in their new habitat due to fewer disease or natural limiting factors and do so to the detriment of native species and ecosystems. Controlling established invasive species is costly and difficult, and complete eradication is extremely difficult. In addition to the environmental damage, these invasive species can impose enormous costs to control or eradicate.

Preventing invasive species from becoming established can be more cost effective than restoring an injured ecosystem. Prevention can avoid the potentially permanent species losses that may result from a pest invasion. For instance, nearly half of the species currently listed as threatened or endangered under the ESA are in jeopardy primarily due to invasive species. Initial changes in ecosystem processes and interactions may be undetectable, depending upon the specific species, prior to devastating impacts of invasions.

Zebra and quagga mussels are among the most devastating invasive aquatic species to invade North American fresh waters. The mussels first arrived from Europe in the 1980's and spread to many water bodies in the eastern and Midwestern United States and have now been found in a number of western states. The arrival of these mussels in a region creates severe ecological and economic impacts because, once established, the mussels can clog water intake and delivery pipes, infest hydro power infrastructure, adhere to boats and pilings, foul recreational beaches and damage fisheries.

Invasive non-native plant species like arundo, giant salvinia, hydrilla, phragmites, Russian olive, and saltcedar choke waterways, reduce flood carrying capabilities, alter riparian morphology and soak up scarce water supplies, all to the detriment of native species. These invaders undermine ecosystem protection and restoration in sensitive watersheds throughout the West. The Colorado River Water Users Association urges federal and state agencies, regional and local governments, and individual citizens to work together in concert to prevent invasive species from becoming established and to implement timely, efficient and cost-effective programs for education, detection, monitoring, control and eradication of invasive species.

Existing laws, such as the Lacey Act, were drafted to address the interstate trade in non-native species without considering the impact on western water supply systems that often involve the transport of water from interstate rivers for use throughout arid regions of the West. Congress should add protections to ensure that invasive species laws are not used to disrupt public water supplies or restrict operations of public water supply systems.

## **Resolution**

### **Colorado River Salinity Control**

#### **Resolution No. 2025-14-Species, Environment, Clean Water**

CRWUA urges the Administration to request, and Congress to provide sufficient funding for the Colorado River Basin Salinity Control Program to implement measures to control the salinity of the Colorado River.

CRWUA urges Reclamation to fully staff the Water Quality Division of its Upper Colorado Region, and 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 practicable. Reclamation should also continue to work on other opportunities to mitigate salinity impacts to the Colorado River.

## **Position Statement**

### **Colorado River Salinity Control**

#### **(Resolution No. 2025-14-Species/Environment/Clean Water)**

The Colorado River supplies water for about 40 million Americans in Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. Approximately 5.5 million acres are irrigated with Colorado River system water in the United States. The Colorado River also serves about 3 million people and half a million acres of irrigated farmlands in Mexico. The reduction in salinity associated with the Colorado River Salinity Control Program (“SCP”) is estimated to provide hundreds of millions of dollars of benefit to agricultural, municipal and industrial Colorado River water users. The Colorado River Basin Salinity Control Act (“CRBSCA”) (PL 93-320) provides the means for the United States to meet its national water quality obligation to Mexico established in 1973 by Minute 242 of the International Boundary and Water Commission (“IBWC”), whereby the Total Dissolved Solids (TDS) concentration of water delivered upstream of Morelos Dam may not exceed the TDS concentration at Imperial Dam by more than 115 parts per million (ppm) plus or minus 30 ppm – effectively a differential requirement that the TDS of water delivered to Mexico exceed the TDS at Imperial Dam by no more than 145 ppm. The CRBSCA also provides the means for the United States to maintain the Basin-wide water quality standards adopted by the seven Colorado River Basin States (“Basin States”) and approved by the U.S. Environmental Protection Agency (“EPA”) pursuant to the Federal Clean Water Act. It is essential that Congress appropriate funding for the Colorado River Basin Salinity Control programs as contained within the budgets of the Bureau of Land Management, Bureau of Reclamation and the United States Department of Agriculture (“USDA”).

The Basin States and their Tribal and non-tribal water users have consistently worked with the executive, legislative and judicial branches of the federal government to assure a fair

and effective allocation of the Colorado River's water supply within the terms of the "Law of the River". Maintaining Basin-wide water quality standards for salinity removes a potentially significant obstacle to the development of the Basin States' apportioned water supplies. At current salinity levels, the economic damages from high salinity currently experienced by municipal, industrial and agricultural users of Colorado River water in the U.S. are estimated to be several hundred million dollars per year. Without the SCP, economic damages would be even higher.

In 1974, Congress enacted the CRBSCA to implement the 1973 salinity agreement with Mexico as well as a program for controlling Colorado River salinity levels within the United States in accordance with the Basin-wide water quality standards for salinity. In 1984, PL 93-320 was amended to authorize a new voluntary, cost-shared, on-farm salinity control program by the USDA and to develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management. In 1995, Congress enacted PL 104-20, which provides Reclamation with programmatic authority to initiate new federal and non-federal salinity control measures. In 1996, the USDA's program was combined with three other federal programs to create the Environmental Quality Incentives Program ("EQIP") by the Federal Agriculture Reform and Improvement Act (PL 104-127). In 2000, PL 106-459 amended the CRBSCA to increase the appropriation ceiling for the Reclamation's programmatic authority by \$100 million. In 2002, Public Law 107-171 reauthorized EQIP under which the Secretary of Agriculture carries out salinity control measures. Section 2806 of the Food, Conservation and Energy Act of 2008 (PL 110-246), often referred to as the "Farm Bill" created the Basin States Program expressly authorizing salinity control practices using Basin Funds. In 2024, PL-118-183 amended the CRBSCA by lowering the non-Federal cost share for USDA projects and increasing the percentages of Federal non-reimbursable costs for operation and maintenance of the Initial Units and for costs of replacing forgone incidental fish and wildlife values.

Pursuant to the CRBSCA, funds from the Upper Colorado River Basin Fund and the Lower Colorado River Basin Development Fund (which derive from hydropower revenues) repay the Federal Treasury for about 15 to 30 percent of the Reclamation and USDA salinity control program expenditures. Since CRBSCA was amended in 1996, upfront cost-sharing from the Upper and Lower Basin development funds, combined with USDA and Reclamation appropriations, have funded the implementation of salinity control measures throughout the Upper Colorado River Basin. Additionally, farmers and irrigation districts participating in the SCP share in the costs of implementing the salinity control measures.

The differential requirement of Minute 242 limits the volume of saline agricultural drainage water from southwestern Arizona that may be included in deliveries to Mexico at Morelos Dam, increases the volume of water that is currently bypassed to the Cienega de Santa Clara, and thereby increases the volume of water delivered to Mexico from Lake Mead. As such, the Minute 242 differential requirement has a negative impact on Colorado River water supplies in the United States. In our era of water supply limitations, it should

therefore be a priority for the Federal government to alter the Minute 242 TDS criterion to ensure that Mexico receives acceptably fresh water without unnecessarily reducing the United States' water supplies.

In recognition of the Congressional inclusion of USDA's Colorado River Basin Salinity Control Program in the EQIP of PL 104-127, the USDA should take all necessary steps to ensure that salinity control proposals receive adequate funding under EQIP. The Administration must request and Congress must appropriate sufficient funding for salinity control measures to be implemented by the USDA, Reclamation, and the Bureau of Land Management.

A significant portion of the success of the SCP has been due to the Paradox Valley Unit in the Upper Colorado River Basin. This project utilizes an injection well to prevent highly saline water from reaching a tributary of the Colorado River. The injection well is nearing the end of its service life, and an economically feasible alternative must be in place to avoid increased salinity when the injection well becomes inoperative. Selection and implementation of feasible measures should be a high priority for the federal government.

## **Resolution**

### **Response to Mine Spills in the Colorado River System Resolution No. 2025-15-Species, Environment, Clean Water**

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.

## **Position Statement**

### **Response to Mine Spills in the Colorado River System (Resolution No. 2025-15-Species/Environment/Clean Water)**

The Animas and San Juan Rivers are significant tributaries in the Upper Basin of the Colorado River, providing water to Tribal and non-tribal water users in the Four Corners Area and are critical to the state, Tribal and local economies in the region. As a result of the Gold King Mine spill that occurred in August 2015, elevated levels of metallic substances were released into the Animas River, and many downstream water users on the Animas and San Juan Rivers ceased diversions of these waters. The deposition of heavy metals and other potentially contaminated substances has caused some water users to be fearful of the quality of their water, and many of those water users have not resumed diverting waters from these rivers.

In the aftermath of the Gold King Mine spill, there were local communities that saw a reduction in their water supply. Many water users and residents believed that responses to the spill were poorly coordinated and state, Tribal and local governments were not informed by federal agencies what steps were being taken to address the problem, to ameliorate the contamination, and to compensate the state, Tribal and local governments and individuals who suffered losses as a result of the spill.

The EPA designated the Bonita Peak Mining District consisting of 48 mining-related sources as a Superfund site. Congressional support for the implementation of strategies, options, and projects identified in the National Priorities List in the Colorado River Basin and appropriation of sufficient funding for those purposes is important.

In addition to compensation for past losses, steps need to be taken to avoid similar spills in the future, and that federal agencies coordinate with state, tribal and local governments to determine the appropriate response, remediation, and compensation to those affected by spills or other contamination caused by federal agency action.

## **Resolution**

### **Mitigating Water Quality Impacts due to the Uranium Mill Tailings Pile Near Moab, Utah**

#### **Resolution No. 2025-16-Species, Environment, Clean Water**

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.

## **Position Statement**

### **Mitigating Water Quality Impacts Due to the Uranium Mill Tailings Pile near Moab, Utah**

#### **(Resolution No. 2025-16 Species/Environment/Clean Water)**

The Colorado River provides important water supplies for about 40 million people and irrigation for nearly 5.5 million acres of farmland in Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. The Colorado River also supplies water to about 3 million people and half a million acres of irrigated farmlands in Mexico. Therefore, protection of water quality from sources of contamination is critical. CRWUA is committed to source protection as a strategy preferable to treatment by downstream users.

A 16 million ton pile (covering 130 acres and up to 90 feet high) of uranium mill tailings was left by the Atlas Minerals Corporation near Moab, Utah. The mill tailings pile is located 750 feet from the Colorado River (150 miles upstream of Lake Powell). Groundwater at the Moab site has become contaminated, mainly with ammonia and uranium, from past processing activities. Contaminated groundwater is migrating to the Colorado River.

Public Law 106-398 enacted by Congress in October 2000 directed the Department of Energy (“DOE”) to prepare a plan and to commence remediation of the Moab site as soon as practicable after the completion of the plan. The DOE was directed to conduct remediation at the Moab site in a safe and environmentally sound manner, including groundwater restoration; and to remove to a site in the State of Utah, for permanent disposition and any necessary stabilization, residual radioactive material and other contaminated material away from the floodplain of the Colorado River. As the final step in complying with the National Environmental Policy Act, DOE signed its Record of Decision on September 14, 2005.

In 2007, DOE awarded a remedial action contract for design and installation of a tailings removal waste handling system, initial tailings movement and operations to relocate the mill tailings and associated wastes to Crescent Junction, a secure disposal cell 30 miles away from the Colorado River. The process of moving the tailings began on April 20, 2009.

The next remedial action contract began in 2012 to continue tailings shipments. Since 2009, a cumulative 16 tons have been relocated to the Crescent Junction disposal site. Although the tailings are mostly gone, continued clean-up will occur at the site. To facilitate site closure in 2029, as currently scheduled, CRWUA supports continued congressional appropriations to complete the clean-up to protect the millions of downstream users of the River.

#### **IV. COLORADO RIVER DELTA AND BASIN**

**Resolution**  
**Colorado River Delta**  
**Resolution No. 2025-17-Colorado River Delta and Basin**

The Federal Government should 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.

**Position Statement**  
**Colorado River Delta**  
**(Resolution No. 2025-17-Species/Environment/Clean Water)**

Over the years, there has been much discussion about the enhancement and restoration of riparian habitat in the Colorado River Delta located in Mexico. The Colorado River Basin States and their water users have consistently worked with the United States, particularly through the IBWC and Mexico, to address issues of mutual concern. The Basin States have pledged continuing cooperation, as a matter of comity, and stated their desire to be active participants with the Federal Government in addressing bi-national Colorado River issues, including Colorado River Delta matters. Efforts to improve the environment in the

Colorado River Delta will require study and clearly articulated and agreed upon habitat, species and environmental goals. Working within the framework and allocations in the 1944 Mexican Water Treaty, the Basin States collaborated with the United States and Mexico to develop a pilot project that would provide a one-time pulse flow to the Colorado River Delta to assess environmental benefits. Water generated for this pulse flow was derived from water conserved by Mexico. This effort was memorialized in Minute No. 319 of the IBWC on November 20, 2012. The pulse flow was released from March through mid-May of 2014, and reached the Gulf of California on May 15.

Minute No. 323 continued the joint cooperative processes established in Minute No. 319, including maintaining the benefits of the pulse flow. Minute No. 323 included provisions for conserving 210,000 acre-feet of water for environmental purposes, including maintaining habitat created by the pulse flow and for new Delta restoration projects. The Basin States remain committed to continuing to work on the development of future conservation projects with Mexico that provide bi-national benefits to both countries.

It is critical that there be strict adherence to the Law of the River upon which the Basin States and their water users rely for certainty and predictability within the continuing dialogue about Colorado River Delta matters. Under the Law of the River, the waters of the Colorado River have been fully appropriated and include water for all needs in Mexico. As a result, any alternatives, to assist Mexico on Colorado River Delta matters will require innovative solutions involving conservation, improved water management and non-water related actions.

CRWUA supports the implementation of innovative environmental projects like those that are set forth in Minutes No. 319 and 323 of the IBWC. CRWUA supports the establishment by the two countries of a common database on their laws and institutions, the operation and management of existing water delivery systems, hydrologic conditions, and the status of species and habitat in the Delta. This information will enhance technical analyses as well as further cooperative efforts between the two countries. International cooperation between the two countries regarding the Colorado River must continue and include participation by the Basin States.

**Resolution**  
**Minutes 323 and 330 of the International Boundary and Water Commission**  
**Resolution No. 2025-18-Colorado River Delta and Basin**

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 Nos. 323 and 330.

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 to Minute Nos. 323 and 330, and requests that Basin States' representatives participate in formal meetings with Mexico, which was essential to the development of previous Minutes.

**Position Statement – COMPLETED**

**Minute No. 323 of the International Boundary and Water Commission**  
**(Resolution No. 2025-18-Colorado River Delta and Basin)**

Minute No. 323, the successor to Minute No. 319 of the IBWC to help implement the Treaty between the United States and Mexico Respecting the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, February 3, 1944, U.S.-Mex., 59 Stat. 1219, T.S. 994 (“Mexican Water Treaty”) was signed by representatives of the United States and Mexico on September 21, 2017, in Juarez, Mexico and became effective upon the formal exchange of letters on September 27, 2017, in Santa Fe, New Mexico. Minute No. 323 is in effect until December 31, 2026. Like Minute No. 319, Minute No. 323 is an agreement to proactively manage the Colorado River system to obtain binational benefits and mitigate risks associated with variable water supplies and growing demands. Minute No. 323 benefits both the U.S. and Mexico by determining the manner in which Colorado River water shortages and surpluses would be shared under specifically defined Lake Mead water surface elevations. Mexico agreed to voluntarily share in shortages if the Secretary determines a shortage condition exists in the Lower Colorado River Basin (“Lower Basin”). Mexico also may share in the temporary benefit of surpluses available within the U.S. when the Secretary determines a surplus condition in the Lower Basin. Mexico has the opportunity to create Mexico’s Water Reserve by deciding to defer delivery of water volumes through adjustments to its annual delivery schedule resulting from water conservation projects or new water sources projects. As part of a joint-cooperative pilot program, Mexico agreed to allow some of Mexico’s reserved water to be converted to Intentionally Created Mexican Allocation (“ICMA”) for use within the U.S. Other activities include funding water conservation projects in Mexico that will result in additional water being made available for use in the U.S., repairing and improving water

infrastructure, enhancing environmental conditions in Mexico, and facilitating Mexico's provision of water for environmental flows in the Colorado River limitrophe and its delta.

## V. HYDROELECTRIC POWER

### Resolution

#### **Hydroelectric Power is Renewable Energy** **Resolution No. 2025-19-Hydroelectric Power**

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

### Position Statement

#### **Hydroelectric Power Qualifies as Renewable Energy** **(Resolution No. 2025-19-Hydroelectric Power)**

Congress has enacted energy legislation that provides financial incentives for new and upgraded renewable energy projects due to increasing concern for the nation's energy security and for reducing carbon-based energy production. To date, Congress has not included hydropower generation as eligible for these incentives. Hydropower is an efficient, cost-effective, renewable and clean energy generation source that already accounts for approximately 12% of the nation's energy supply and nearly 80% of the nation's total renewable electricity generation. Hydropower is a non-polluting form of electricity generation. The National Hydropower Association estimates that more than 160 million tons of carbon dioxide emissions were avoided in the United States in 2004 because of hydropower generation in the United States.

Hydropower is a clean, reliable, and affordable renewable energy source that serves as a key component in our national environmental and energy policy objectives. It is time Congress recognized that hydropower is renewable, and emissions-free. At a time when there are growing concerns about the impacts of climate change, we need to find energy sources that will help curb greenhouse gas emissions without stifling the economy.

Hydropower should be recognized as a renewable resource similar to wind and solar. Hydropower generation actually complements generation from these alternative renewable sources. With their unique ability to follow electricity demand, hydropower facilities can firm up the load carrying capacity of renewable generators that need help compensating for their problems with intermittency. Hydropower generation can be the perfect partner for less predictable renewable resources such as wind and solar generation. In fact, many utilities rely on hydropower assets to turn the variable output of wind power into a more dependable resource.

Despite assumptions in some quarters that hydropower is a mature or "tapped out" technology, significant new potential for hydropower exists. For example, additional

capacity exists at many current hydropower facilities. In addition, incentives to encourage efficiency improvements and capacity upgrades at existing hydropower facilities would increase our nation's renewable energy supply. Congress took steps in the Energy Policy Act of 2005 and recent tax extender legislation to authorize production tax credits (Production Tax Credit) and tax-credit bonding authority (Clean Renewable Energy Bonds) for incremental hydropower. Many utilities are working to increase the efficiency of their current assets. Currently, the federal government is also studying the potential for increasing electric power production capability at federally-owned water regulation, storage and conveyance projects.

There are also new, undeveloped sites for hydropower generation. The Energy Policy Act of 2005 required the Bureau of Reclamation to submit a report to Congress identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Department of Energy that have not been completed or authorized for construction. On November 8, 2005, BOR submitted a comprehensive inventory of Western water storage and hydroelectric projects to the U.S. House Committee on Resources and the Senate Committee on Energy and Natural Resources. See the Section 1840 Reclamation's report on hydropower.

Finally, while environmental restrictions have stifled large-scale development of hydropower potential in this country, there is significant opportunity with smaller existing hydropower technologies that can play a role in the trend toward distributed generation. Technologies such as the application of micro-turbines to public water systems, storm water systems, and small irrigation canal hydropower should be encouraged by renewable energy legislative efforts.

## **Resolution**

### **Western Area Power Administration Resolution No. 2025-20-Hydroelectric Power**

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 non-federal power generators or non-power uses.

## **Position Statement**

### **Western Area Power Administration (Resolution No. 2025-20-Hydroelectric Power)**

The public benefits of hydropower generation in connection with Reclamation projects were recognized by Congress in the Reclamation Project Act of 1939, which authorized the Secretary to sell the electric power to municipalities and other public corporations at cost. In 1977, Congress directed that the power marketing functions, including transmission, be separated from hydropower generation and transferred to new administrations created within the Department of Energy.

Today the Western Area Power Administration is responsible for marketing the power generated at 56 federal hydropower plants, including transmission of the energy through 17,000 miles of transmission lines. These hydropower plants include the Hoover Dam and Parker-Davis facilities on the lower Colorado River and Glen Canyon Dam on the upper Colorado River.

On March 16, 2012, the Department of Energy issued a memorandum instructing the power administrators to expand their activities in areas of transmission integration and upgrades, and to modify rate structures to incentivize the integration of renewable, variable energy generation and electric-vehicle deployment. This memorandum has raised significant concerns among the many public power agencies that have contracts for federal hydropower.

Traditionally, the cost of constructing, operating, and maintaining federal hydropower plants and transmission facilities have been paid through the cost-based rates paid by the customers receiving power. The changes proposed by the Department of Energy would impose new costs on power customers for integrating power resources that do not benefit those customers. CRWUA joins other organizations, including the American Public Power Association and the National Water Resources Association, in expressing its concerns that the Energy Secretary's directives not be implemented in a manner that shifts additional costs to existing customers.

## **Resolution**

### **Reclamation's Water and Power Facilities Resolution No. 2025-21-Hydroelectric Power**

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 multiple-purpose 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 not 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, including experimental flows from Glen Canyon Dam.

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.

## **Position Statement**

### **Reclamation's Water and Power Facilities (Resolution No. 2025-21-Hydroelectric Power)**

Inadequate precipitation in the American West required settlers to apply irrigation water for agriculture to succeed. As demand for water increased, Westerners sought the Federal Government's investment and assistance with water storage and irrigation projects, recognizing similar Congressional investments for roads, river navigation, harbors, canals and railroads. The irrigation movement demonstrated its strength when pro-irrigation planks found their way into both Democratic and Republican political platforms in 1900. Congress responded to these expressions of need with the passage of the Reclamation Act of June 17, 1902. The Act required that water users repay construction costs for projects from which they received benefits.

Reclamation's projects and the water provided on an annual basis are of critical importance to the Western States. The Reclamation program has been a prominent part of Western U.S.'s development and Reclamation operates about 180 projects in the 17 Western States. The total Reclamation investment in completed facilities exceeds \$12 billion and these completed works provide agricultural, municipal and industrial water to about one-third of the American West's population. Over 9 million acres are irrigated with water supplied in whole or in part by Bureau of Reclamation projects. Reclamation is a major American generator of electricity through the operation of 56 hydropower plants associated with its projects. In the West, water infrastructure is every bit as important as transportation and energy infrastructure. It is essential to the continued economic growth and development of the region.

Given the huge investment made by the Federal Government and water users; the critical, life-sustaining importance of the water of the water resources managed by the Reclamation projects, and the water supply challenges being faced in the West (the most rapidly growing portion of the United States), it is essential that Reclamation adequately and properly attend to its water user constituency and responsibly discharge its fiduciary and resource management responsibilities. The enormous financial investment in these critically important water projects must be protected through adequate annual maintenance and rehabilitation expenditures. As these projects were constructed over the past 100 years,

adequate and timely annual financial investment must be made to offset the effects of age and maintenance, rehabilitation and updating activities will ultimately lead with emergency circumstances. Sound public policy demands adequate federal maintenance and rehabilitation expenditures in recognition of the absolute necessity and enormous dependence on Reclamation projects to provide adequate and reliable water supply in the arid West.

The water supply infrastructure in the West should be used to the maximum benefit of the nation. Seven of the ten fastest growing cities of the nation are in the West, and this growing population requires an adequate water supply. Additional water storage is essential to meet the growing demand for water in a “fast growing” region.

Water transfers play a vital role in water supply. The federally constructed water infrastructure of the Colorado River Basin provides opportunities for meeting supply challenges. CRWUA urges the Department of the Interior and Reclamation to exercise their maximum legal authority to facilitate appropriate water supply and water transfer projects.

Reclamation should do its utmost to manage reservoir conservation storage to avoid or minimize shortages on the Colorado River and maximize power generation benefits in accordance with the laws operating criteria and guidelines governing the respective reservoirs' operation.