

NW/ASF



COLORADO RIVER INDIAN TRIBES

Water Resources Department
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May 21, 2002

Mr. Arthur G. Baggett, Jr. Hearing Officer
State Water Resources Control Board
1001 I Street, 25th Floor
Sacramento, California 95814

Re: PETITION OF IMPERIAL IRRIGATION DISTRICT AND SAN DIEGO COUNTY WATER
AUTHORITY FOR APPROVAL OF LONG-TERM TRANSFER OF CONSERVED WATER

Dear Mr. Baggett,

In response to your letter of May 14, 2002 requesting clarification of the legal rights and authorities under which the Colorado River Indian Tribes (CRIT) use the Colorado River water for power production, we can offer the following response.

1. Under what type of water right does CRIT divert water at Headgate Rock Dam for purposes of generating hydroelectric power?

The Colorado River Indian Tribes is a legal user of Colorado River water for power production because the Congress of the United States has given the Colorado River Indian Tribes the express right to use all the water in the Colorado River flowing below Headgate Rock Dam to generate power at the CRIT Headgate Rock Power Plant. CRIT has provided evidence to the State Water Resources Control Board of CRIT's right to the exclusive use of the Headgate Rock Dam, which was built by the Federal Government for the Tribes' sole use and benefit (CRIT Exhibit 1-Page 1, Exhibit 2-Page 2, Exhibit 3-Page 1, Exhibit 4-Pages 3 and 18). CRIT has provided evidence that the generation of power for the Tribes use was authorized in 1935 (CRIT Exhibit 2-Page 2) and has been realized through the construction, by the Federal Government, of a run-of-the-River power plant at Headgate Rock Dam, completed in 1993 (CRIT Exhibit 9-Page 2). This Power Plant is part of a Dam structure that controls the entire flow of the Colorado River (CRIT Exhibit 2-Page 2, Exhibit 4-Page 12). In addition, the Power Plant was originally designed and has been built to use the maximum normal flow of the River for power generation (CRIT Exhibit 4-Page 13). The U.S. Bureau of Reclamation, the Federal Government agency responsible for Colorado River management, studied and justified the construction, and payback of cost of construction, of this Power Plant based on full use of all the water flowing in the Colorado River to meet the existing rights and diversions below Headgate Rock Dam, and these studies have been proven by actual operation of the Power Plant (CRIT Exhibit 4-Pages 3, 13 and 31, and Exhibit 9-Page 3). CRIT's right to use Colorado River water for power production includes the Colorado River water delivered to Imperial Irrigation District which includes water proposed to be transferred under the water transfer in question (CRIT Exhibit 4-Page 12).

a. Does CRIT claim to hold riparian rights under California law?

CRIT's protest regarding power loss in this proceeding is based on it's rights as indicated in answers 1 and 1c.

May 21, 2002

b. Does CRIT claim to hold appropriative rights perfected under Arizona law?

Please see answer 1a.

c. Does CRIT claim to hold federal reserved rights?

CRIT holds present perfected rights in the Colorado River in the amount of 719,248 acre feet available for use by CRIT including water use by CRIT on Reservation lands in California and Arizona. These water rights have been adjudicated by the U.S. Supreme Court in Arizona v. California, 376 US 340 and the Supplemental Decree of October 10, 2000 (see attached).

d. Does CRIT claim to hold any other type of right?

Please see answer 1a.

2. For any water right claimed, what is the maximum quantity of water that may be diverted, the priority of the right, the maximum rate of diversion, and the authorized period or season of diversion?

Please see answer 1.

3. What is the maximum flow that CRIT can use to generate power? Are there times when water bypasses the power plant because the flow in the River exceeds the capacity of the power plant? If so, how much water bypasses the plant, under what conditions does water bypass the plant, and how often does water bypass the plant?

Please see answer 1.

4. Is CRIT legally entitled to be protected from injury that may be caused by the transfer of previously stored water, which would not under natural circumstances be available for CRIT's use? In other words, if CRIT has a water right, does that right apply to diversion of previously stored water or only to diversion of the natural flow of water?

Please see answer 1. CRIT is a legal user of all water normally flowing downstream at Headgate Rock Dam and will be substantially harmed by the subject transfer. Natural flow and use of previously stored water are not distinguished.

5. If CRIT is not entitled to protection from injury caused by the transfer of previously stored water, for each year type, on average, how much of the flow of the Colorado River that CRIT uses for hydroelectric power generation results from the release of previously stored water and how much of the flow is water that would be present under natural conditions?

Please see answers 1 and 4.

Thank you for your interest and consideration of this important matter.

Sincerely,



Gary Hansen, Director

Arthur Baggett, Jr.
Hearing Officer
State Water Resources Control Board
1001 T Street, 22nd Floor
Sacramento, CA 95814

Re: "IID/SDCWA Petition"

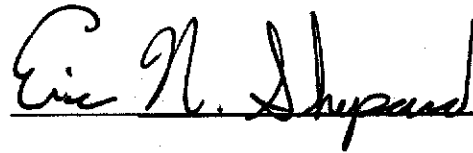
CERTIFICATE OF SERVICE

I am employed in La Paz County in the State of Arizona. I am over the age of 18 and not a party to this proceeding. My business address is Route 1, Box 23-B, Parker, Arizona 85344.

On May 24, 2002, I served Colorado River Indian Tribes' response to interrogatories by Federal Express, postage prepaid, on the parties listed below.

Executed on May 24, 2002, in Parker, Arizona.

Eric N. Shepard



Eric N. Shepard

LIST OF PARTIES TO EXCHANGE INFORMATION
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Water Transfer Hearing

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