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Fort Mojave Indian Tribe

Physical Resources Department

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September 8, 2010

Janice Staudte, Superintendent
Colorado River Agency
Bureau of Indian Affairs
12124 1st Avenue
Parker, Arizona 85344

Re: Colorado River Diversions

Dear Ms Staudte:

As requested by your office, enclosed is the Fort Mojave Indian Tribe's best estimate of Colorado River diversions for 2011 and the completed 417 Questionnaire.. These estimates are preliminary because our principal water user, the Tribe's Avi Kwa'Ame Farms will not finalize its 2011 crop plan for several months.

As you know, in California the Tribe overran our estimated diversions in 2006, 2007 and 2009. In each year in California, the Tribe's overruns exceed the amount of water it is entitled to divert under its decreed water rights. We made partial "payback" for our overruns in 2008 and in 2010 the Tribe is obligated to payback 4,070 acre feet. We are on schedule to meet that payback obligation.

The Tribe has calculated that it will still owe the Colorado River system 2,255 acre feet on January 1, 2011. and our estimate of our 2011 diversions include this payback amount. We understand that the Bureau of Reclamation claims that the Tribe owes more water than what we have calculated due to additional overruns in 2009, based on BOR's reference to an "approved order." We understand that decision was made by a technical committee whose membership is composed of state representatives. We reject BOR's reliance on an "approved order" and dispute its technical committee's claim that the Tribe owes more than 2,255 acre-feet to complete the Tribe's payback for its prior years' overruns.

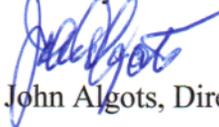


The Bureau of Reclamation's authority to approve or disapprove water orders is based upon its authority to contract with water users under the Boulder Canyon Project Act. The Tribe's right to divert and use Colorado River water was decreed by the United States Supreme Court in *Arizona v California*; it does not have, nor does it need a contract with BOR to utilize its vested Colorado River water. In our opinion, any action by the BOR that in any way limits our ability to divert our full vested water rights is a violation of the United States' decrees which are now fully incorporated into what is referred to as the "Consolidated Decree," issued by the Supreme Court.

We agree that to properly manage the River, BOR needs to determine how much water will be used each year, including how much water the Tribe will use. We have and will continue to provide BOR with timely reports on our use and our projected demands. We also agree that the Tribe, as well as other water users, should be required to payback their overruns when the Tribe exceeds its decreed water rights. However, we do not believe that BOR's calculation of the Tribe's water use and overruns should be made by a state controlled technical committee. Proper consideration of the Tribe's sovereign status and our government to government relationship with the BOR requires that the calculation of the Tribe's overruns and the schedule for payback of those overruns be determined by the Tribe and BOR without interference of or evaluation by the state run technical committee.

We hope that the Bureau of Indian Affairs will assist the Tribe (and other Tribes on the River) in addressing this issue with the Bureau of Reclamation.

Sincerely



John Algots, Director

cc

Timothy Williams, Chairman
Fort Mojave Indian Tribe

Lorri Grey-Lee, Regional Director
Lower Colorado River Region
US Bureau of Reclamation

Tod J Smith, Esq.

FORT MOJAVE INDIAN RESERVATION

**2011 ESTIMATE OF DIVERSIONS OF COLORADO RIVER WATER TO BE
DIVERTED FROM THE MAINSTEM AND WELLS IN THE FLOODPLAIN**

MONTH	ARIZONA	CALIFORNIA	NEVADA	TOTAL
JANUARY	2,000	800	100	2,900
FEBRUARY	3,000	800	300	4,100
MARCH	5,000	1,200	400	6,600
APRIL	6,000	1,800	500	8,300
MAY	8,000	1,800	500	10,300
JUNE	12,000	1,600	900	14,500
JULY	12,000	1,200	900	14,100
AUGUST	10,000	1,100	900	12,000
SEPTEMBER	6,000	1,000	500	7,500
OCTOBER	5,000	665	400	6,065
NOVEMBER	4,000	1,400	300	5,700
DECEMBER	2,000	1,100	100	3,200
TOTAL	75,000	14,465	5,800	95,265 acre feet
Entitlement	103,535	16,720	12,534	132,789
Total / Entitlement (%)	76.3	86.5	46.3	71.7
I.O.P. Payback	0	2,255	0	2,255

The above is the Fort Mojave Indian Tribe's best estimate of diversions in 2011. It is only an estimate and the Tribe reserves the right to divert up to full entitlement at its sole discretion.

Prepared by
FMIT Physical Resources Department
September 1, 2010

FORT MOJAVE INDIAN TRIBE
43 CFR Part 417.3 Consultation Questionnaire for 2011

	<u>2010 Response</u>	<u>2011 Response</u>
AREA TO BE IRRIGATED <i>Have you added or reduced the number of turnouts or cultivated acres in the Tribe's service area</i>	No change	Actual cultivated acres Arizona- 10,502 (400 a added in 2010) California – 3,153 Nevada- 429
CLIMATIC CONDITIONS <i>List weather stations used, annual mean temperature, annual rainfall and reference evapotranspiration</i>	Average rainfall is 4 inches 3 inches Dec-Mar 1 inch Aug/Sep	AZMET- Mohave Station Average mean temperature 67.4 Average rainfall 4.00 inches ETo 84 inches
LOCATION <i>Have there been any changes in the location of the Tribe's facilities(e.g. canals, laterals, gates etc)</i>	No change	No change
LAND CLASSIFICATION <i>Quantify crop acres moved between soil classifications and projected impact on water use</i>	No change	No change

KINDS OF CROPS RAISED

List changes in crop types(e.g. more/ less alfalfa than last year etc) and the projected impact on water use

Alfalfa hay—5,868 acres
Upland cotton—5,196 acres
Bermuda grass seed/hay—978 acres
Misc. hay and pasture—1,650 acres
Mixed vegetables—20 acres

429 acres in Nevada will go from cotton to alfalfa increasing water usage. 400 acres of alfalfa will be added in Arizona increasing usage

CROPPING PRACTICES

Identify changes to cropping patterns (e.g. sprinkle germination etc) and the expected impact on water use

20 Acres of flood irrigated alfalfa replaced with drip irrigated vegetables. Water usage reduced.

240 acres of center pivot irrigated alfalfa in CA planted to cotton reducing usage. 400 long fallowed acres in AZ planted to alfalfa, increasing usage

TYPE OF IRRIGATION SYSTEM IN USE

Has there been a change in irrigation methods such as more /less drip irrigation, level basin acreage etc

See CROPPING PRACTICES above

See CROPPING PRACTICES above

CONDITION OF WATER CARRIAGE AND DISTRIBUTION SYSTEMS

Amount of water delivered to customers in af

Arizona (2008) 68,698 acre feet
California (2008) 14,993 acre feet
Nevada (2008) 5,618 acre feet

Arizona (2009) 67,316 acre feet
California (2009) 18,214 acre feet
Nevada (2009) 4,855 acre feet

RECORD OF WATER ORDERS

Does the Tribe amend daily water orders with USBR more than 3 times/month

No change

The Tribe does not use daily water orders

RECORD OF REJECTION OF WATER ORDERS

Have water orders from farmers been rejected by the Tribe (e.g. for non-payment etc) that would impact your water order

No change

The Tribe does not use water orders

GENERAL OPERATING PRACTICES /POLICIES

Has there been any change in operating practices? If so describe or attach the policy

No change

No change in policies, individual farms operate their own systems

OPERATING EFFICIENCIES

Total water consumed divided by total diversions in percent

Center pivot & drip 95%
Flood 60-80 %

Center pivot & drip 95%
Flood 60-80%

METHODS OF IRRIGATION OF THE WATER USERS

Types/changes of irrigation management practices used (e.g. surge, cutback, etc) and the amount of acres changed

No change other than the 20 acres of drip installed in Arizona

400 acres of low pressure, center-pivot irrigation installed on long fallowed Arizona land.

AMOUNT AND RATE OF RETURN FLOW TO THE RIVER

Amount (cfs) and average rate (ft/sec) of return flow to the River

No measured return flow

No measured return flow

MUNICIPAL WATER REQUIREMENTS

Amount of water going to non-agricultural (municipal ,industrial, feedlots, other etc

Arizona (2008) 4,023 acre feet
California (2008) 30 acre feet
Nevada (2008) 2,699 acre feet

Arizona (2009) 2,734 acre feet
California (2009) 39 acre feet
Nevada (2009) 1,652 acre feet

PROVISIONS OF USERS WATER DELIVERY CONTRACTS

Have there been any changes in the water service contract

Not applicable to agricultural water
No change in M & I water

No change

WATER RATES

*Have there been any changes in water rates
If so, submit the changed rates*

No change in agricultural or FMTUA water but the South Point Power Plant & Mojave Resort GC have dedicated diversions.

The rate schedule at Fort Mojave Tribal Utilities Authority is under review

*Number of ditch riders and areas/divisions
each rider works*

NUMBER OF DITCH RIDERS

No change

The Tribe does not use ditch riders

WATER CONSERVATION

*How much money will be spent by the
Tribe on water conservation in 2010*

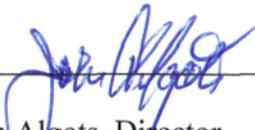
105 Acres of flood irrigated land in Arizona will be converted to drip. Costs are not yet available.

No change

OTHER RELEVANT FACTORS

No change

2011 Should be the last year of IOPP shortage conditions in California. This farm has largely been converted to a forage/cattle feeding operation due to water constraints but is expected to return to limited crop production in 2012.

 9/1/2010

John Algots, Director
Department of Physical Resources