

ORDINANCE
COLORADO RIVER TRIBAL COUNCIL

An Ordinance to Authorize the Transfer of a Limited Portion of the Decreed Allocation of the Colorado River Indian Tribes' Water for Use Off the Reservation in Order to Provide a Sustainable On-Reservation Economy.

Be it enacted by the Tribal Council of the Colorado River Indian Tribes of the Colorado River Indian Reservation, in *special* meeting assembled on November 8, 2018.

WHEREAS, the Colorado River Indian Tribes is a federally recognized Indian tribe, duly organized with a tribal governing body known as the Tribal Council according to the provisions contained in the Indian Reorganization Act of June 18, 1934;

WHEREAS, Article VI, Section 1(c) of the Constitution of the Colorado River Indian Tribes ("Constitution") authorizes Tribal Council to approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets or any pledge of income, revenues or receipts therefrom which may be authorized or executed by the Secretary of the Interior or his authorized representative; and

WHEREAS, Article VI, Section 1(e) of the Constitution authorizes Tribal Council to negotiate and enter into business contracts; and

WHEREAS, Article VI, Section 1(h) of the Constitution authorizes Tribal Council to administer any funds or property within the control of the Tribes; and

WHEREAS, Article VI, Section 1(v) of the Constitution authorizes Tribal Council to promulgate ordinances and resolutions to provide for the administration of the health, education and welfare of members of the Tribes; and

WHEREAS, Article X of the Constitution authorizes Tribal Council to submit ordinances to the membership for vote in a referendum election; and

WHEREAS, pursuant to these authorities the Ordinance to be submitted has the following meanings and the listed purposes:

- "Decreed Allocation" or "Water Rights" means that portion of the present perfected rights of CRIT that were decreed in *Arizona v. California* in annual quantities not to exceed (i) 719,248 acre-feet of diversions from the mainstream or (ii) the quantity of mainstream water necessary to supply the consumptive use required for irrigation of 107,932 acres and for the satisfaction of related uses, whichever of (i) or (ii) is less; and
- "transfer" means the delivery of a portion of the Tribes' Decreed Allocation of water for short-term usage off of the Reservation pursuant to leases, exchanges, and other arrangements entered into between the Tribes and other parties; and

- WHEREAS, in the interest of the Tribes and the welfare of its members, the Tribes desires to receive the full economic value of all of the Tribes' water rights, to increase distributions to tribal members, to maintain an agricultural economy, and to benefit from the use of its water as numerous other Tribes with water settlements have done; and
- WHEREAS, an Ordinance authorizing the Tribes' transfer of a limited portion of the Decreed Allocation of its Colorado River water for use off the Reservation will enable the Tribes to exercise the full extent of its sovereign authority over its water and minimize third parties continuing to use the Tribes' water without any economic benefit to the Tribes; and
- WHEREAS, the severe drought conditions in the Colorado River Basin present an opportunity for the Tribes to provide a water supply in an environmentally responsible manner that is also economically beneficial to the Tribes; and
- WHEREAS, through its review of the Tribes' rights, our current uses and demand for Colorado River water both on and off the Reservation, Tribal Council has determined that the transfer of limited amounts of the Tribes' entitlement to Colorado River water will substantially increase the economic return from the Tribes' water rights for the benefit of the Tribal membership; and
- WHEREAS, greater economic return will result in future revenue to fund additional tribal distributions to the membership, further development of agriculture, and to provide for other community needs, including but not limited to new housing for tribal members; health care; education; public safety; a new nursing home on-reservation; a new Cultural Center on-reservation; new on-reservation drug and alcohol treatment programs, inclusive of residential treatment; litigation or other efforts to fight for, preserve, and fully maximize the use of all water rights due to CRIT; and
- WHEREAS, Tribal Council will not and cannot sell the Tribes' water rights; and
- WHEREAS, no transfers of water shall interfere with the Tribes' or the membership's current use of water on the Reservation for traditional, agricultural, household or commercial purposes; and
- WHEREAS, Tribal Council intends to continue to maintain at least the same number of acres for agricultural use as are used for agriculture as of the date of enactment; and
- WHEREAS, Tribal Council shall advocate for the enactment of federal legislation required to allow the Tribes to transfer water for use off of the Reservation; and
- WHEREAS, consistent with its authority under the Tribes' Constitution and the prospective authorization from Congress to transfer water for use off the Reservation, Tribal Council shall be authorized to make improvements to the Tribes' water infrastructure and the Bureau of Indian Affairs irrigation system that are necessary to improve on-reservation uses; and

NOW, THEREFORE, BE IT ENACTED that the Tribal Council of the Colorado River Indian Tribes hereby calls a referendum election to be held on January 19, 2019 for consideration of the following Ordinance to be adopted:

"An Ordinance to Authorize the Transfer of a Limited Portion of the Decreed Allocation of the Colorado River Indian Tribes' Water for Use Off the Reservation in Order to Provide a Sustainable On-Reservation Economy"; and

BE IT FURTHER ENACTED that the Tribal Council shall be authorized to transfer a limited portion of the Decreed Allocation of the water of the Colorado River Indian Tribes off the Reservation with each lease, exchange or other agreement approved by Tribal Council majority vote only after a public hearing; and

BE IT FURTHER ENACTED that the Tribal Council intends to continue to maintain at least the same number of acres for agricultural use as are used for agriculture as of the date of enactment; and

BE IT FURTHER ENACTED that the Tribal Council shall dedicate new revenue from off Reservation water transfers to the following:

- provide an increased tribal distribution payment for each individual tribal member; and
- agricultural development and water delivery infrastructure improvements necessary to generate more revenue; and
- membership needs which shall include, but not be limited to, new housing for tribal members; health care; education; public safety; a new nursing home on-reservation; a new Cultural Center on-reservation; new drug and alcohol treatment programs on-reservation, inclusive of residential treatment; litigation or other efforts to fight for, preserve, and expand all water rights due to CRIT; and

BE IT FURTHER ENACTED that no substantial changes may be made to the Ordinance presented in this public vote without a supermajority vote of at least six (6) Tribal Council members or a public vote of tribal members; and

BE IT FURTHER ENACTED that the referendum ballot shall present the following to the membership:

A "Yes" vote shall ALLOW Tribal Council to approve the transfer of a limited portion of CRIT's Decreed Allocation of water off the Reservation thereby creating additional revenue to be used to increase tribal member distribution payments, as well as provide for vital programs and projects.

A "No" vote shall RESTRICT the ability of Tribal Council to approve the transfer and use of any water off the Reservation.

; and

BE IT FURTHER ENACTED that the Tribal Council shall advocate for federal legislation required to allow the Colorado River Indian Tribes to transfer water for off Reservation use; and

BE IT FURTHER AND FINALLY ENACTED the Tribal Council Chairman and Secretary, or their designated representatives, are hereby authorized and directed to execute any and all documents necessary to implement this Ordinance and to take the actions necessary to fulfill the purposes of this Ordinance.

CERTIFICATION

The foregoing Ordinance was on November 8, 2018 duly approved by a vote of 6 for, 0 against and 0 abstaining, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Article VI of the Constitution of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This Ordinance is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By



Chairman



ACTING

Secretary