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**A BILL**

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

**Section. 1. SHORT TITLE**

This Act may be cited as the “Colorado River Indian Tribes and State of Arizona Water Resiliency Act of 20--.”

**Section. 2. PURPOSES**

The purposes of this Act are:

- (a) to authorize the Colorado River Indian Tribes to lease, exchange and enter agreements for storage underground of a portion of the CRIT Consumptive Use of its Decreed Allocation, that is accounted for as part of the Lower Colorado River apportionment for the State of Arizona, for use and storage off of the Colorado River Indian Reservation in the part of the State of Arizona that is in the Lower Basin of the Colorado River;
- (b) to authorize the Secretary to approve the lease, exchange or storage of a portion of the CRIT Consumptive Use; and
- (c) for other purposes.

**Section 3. DEFINITIONS**

In this Act—

- (a) ALLOTTEE.—The term “Allottee” means a person who holds a beneficial real property interest in an allotment of Indian land that is:
  - i. located within the exterior boundaries of the Colorado River Indian Reservation; and
  - ii. held in trust by the United States.
- (b) COLORADO RIVER INDIAN RESERVATION.—The term “Colorado River Indian Reservation” or “Reservation” means, for purposes of this legislation, only that part of the reservation established for the Colorado River Indian Tribes that is located in the State of Arizona and not the part of the reservation that is located in the State of California.

- (c) CONSOLIDATED DECREE.—The term “Consolidated Decree” means the Consolidated Decree entered by the United States Supreme Court in Arizona v. California, 547 U.S. 150 (2006).
- (d) CONSUMPTIVE USE. – The term “Consumptive Use” means a portion of the Decreed Allocation that has been consumptively used by the CRIT within the exterior boundary of the Reservation for a minimum of four of the five years immediately preceding the year of delivery of a portion of the Decreed Allocation according to a lease, exchange or Storage agreement. Any verified reduction in Consumptive Use pursuant to a system conservation agreement, a lease, an exchange, or Storage agreement, or from the creation of intentionally created surplus shall be deemed to be a Consumptive Use in the year in which the reduction occurred, if the reduction is reflected in the Water Accounting Report.
- (e) CRIT.—The term “CRIT” means the Colorado River Indian Tribes, a federally recognized Indian tribe.
- (f) DECREED ALLOCATION.—The term “Decreed Allocation” means the volume of water of the mainstream of the Colorado River allocated to the CRIT that is accounted for as part of the apportionment for the State of Arizona as decreed by the United States Supreme Court in Part I-A of the Appendix to the Consolidated Decree.
- (g) LOWER BASIN.—The term “Lower Basin” has the meaning given the term in Article II(g) of the Colorado River Compact, 1922, as approved by Congress in the Act of December 21, 1928 (45 Stat. 1057) and by Presidential Proclamation of June 25, 1929 (46 Stat. 3000).
- (h) PERSON.—The term “Person” means an individual, a public or private corporation, a company, a partnership, a joint venture, a firm, an association, a society, an estate or trust, a private organization or enterprise, the United States, any Indian tribe, a governmental entity; and a political subdivision or municipal corporation organized under or subject to the constitution and laws of the State of Arizona.
- (i) SECRETARY.—The term “Secretary” means the United States Secretary of the Interior.
- (j) STATE.—The term “State” means the State of Arizona.
- (k) STORAGE. – The term “Storage” means the storage underground of a portion of the CRIT Consumptive Use off the Reservation within the part of the State in the Lower Basin and in accordance with State law.
- (l) WATER ACCOUNTING REPORT.—The term “Water Accounting Report” means the annual “Colorado River Accounting and Water Use Report – Arizona, California, and Nevada” prepared by the Bureau of Reclamation that includes, but is not limited to, the compilation of records in accordance with Article V of the Consolidated Decree.

**Section 4. AUTHORIZATION TO ENTER AGREEMENTS FOR LEASE OR EXCHANGE**

- (a) Notwithstanding any other provision of law, including Section 2116 of the Revised Statutes (25 U.S.C. 177), the CRIT is authorized, subject to the Secretary's approval, to enter leases or options to lease and exchanges or options to exchange a portion of its Consumptive Use for use off the Reservation, provided the use is in the part of the State in the Lower Basin.
- (b) Leases or options to lease and exchanges or options to exchange shall be for the term provided in the agreement which shall not be longer than 100 years. Leases or options to lease and exchanges or options to exchange may be renegotiated or modified at any time during the term, with the Secretary's approval, provided the term of the renegotiated agreement does not exceed 100 years.
- (c) Any Person entering a lease or option to lease or an exchange or option to exchange a portion of the CRIT Consumptive Use under this Act shall use the water in conformance with Federal law and applicable State law.
- (d) The CRIT shall have the sole authority to enter leases or options to lease and exchanges or options to exchange a portion of the CRIT Consumptive Use, subject to the Secretary's approval.

**Section 5. AUTHORIZATION TO ENTER AGREEMENTS FOR STORAGE UNDERGROUND**

- (a) Notwithstanding any other provision of law, including Section 2116 of the Revised Statutes (25 U.S.C. 177), the CRIT is authorized, subject to the Secretary's approval, to enter agreements for Storage of a portion of the CRIT Consumptive Use and water received in an exchange, at one or more underground storage facilities or groundwater savings facilities off the Reservation, within the part of the State in the Lower Basin.
- (b) Storage of a portion of the CRIT Consumptive Use or water received in an exchange shall be in conformance with federal law and applicable State law.
- (c) The CRIT is authorized to enter agreements with the Arizona Water Banking Authority, or a successor agency or entity, for Storage of a portion of the CRIT Consumptive Use or water received in exchange, at one or more underground storage facilities or groundwater savings facilities off the Reservation within the part of the State in the Lower Basin in conformance with federal law and applicable State law.
- (d) The CRIT shall have the sole authority to enter an agreement for Storage, subject to the Secretary's approval.

- (e) The CRIT may assign or sell any long-term storage credits accrued as a result of the Storage authorized in this section, provided such assignment or sale is in accordance with applicable State law.

**Section 6. AUTHORIZATION TO APPROVE**

- (a) The Secretary is authorized to approve leases or options to lease, exchanges or options to exchange, and Storage agreements for the use or Storage of a portion of the CRIT Consumptive Use off the Reservation provided that the leases, exchanges, options, and agreements are in compliance with this Act and the Agreement described in Section 9.
- (b) The Secretary shall not approve an agreement for the permanent alienation of any portion of the CRIT Decreed Allocation.
- (c) The authorization provided by this Act to approve a lease or option to lease, an exchange or option to exchange, or a Storage agreement shall be considered to satisfy the requirements for authorization of the action by treaty or convention imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).
- (d) Nothing in this Act or any agreement entered into or approved pursuant to this Act diminishes or abrogates the authority of the Secretary under applicable federal law or regulation including the Consolidated Decree.

**Section 7. SECRETARIAL RESPONSIBILITIES**

- (a) The Secretary shall ensure compliance with the provisions of--
  - i. the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
  - ii. the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq);
  - iii. all other applicable Federal environmental laws; and
  - iv. all regulations promulgated under the laws described in subparagraphs (i) through (iii).
- (b) The Secretary shall document all leases, exchanges, and the delivery of a portion of the CRIT Consumptive Use for Storage in the Water Accounting Report.

**Section 8. AGREEMENT BETWEEN THE CRIT AND THE STATE.**

The CRIT and the State have entered an agreement for notice, information sharing, and collaboration to occur in advance of the CRIT executing a lease or option to lease, an exchange or option to exchange, or a Storage agreement. Such agreement between CRIT and the State requires the CRIT to submit to the State all documents regarding a lease or option to lease, an exchange or option to exchange, or a Storage agreement.

**Section 9. AGREEMENT AMONG THE CRIT, THE STATE, AND THE SECRETARY**

- (a) Prior to entering a lease or option to lease or an exchange or option to exchange or a Storage agreement, the CRIT shall enter into an agreement with the State and the Secretary that sets forth the procedural, technical, and accounting methodologies for leases, exchanges and Storage agreements, including quantification and water accounting.
- (b) The execution of the agreement with the CRIT and the State by the Secretary under this section shall not constitute a major action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- (c) Nothing in this Act prohibits the Secretary from approving any modification to the agreement among the CRIT, the State and the Secretary that has been approved by the CRIT and the State, including an appendix or exhibit to the agreement, to the extent that the modification is consistent with this Act and does not otherwise require congressional approval under Section 2116 of the Revised Statutes (25 U.S.C. 177) or any other applicable provision of federal law.

**Section 10. NO EFFECT ON THE CRIT DECREED ALLOCATION**

- (a) A lease, exchange, or Storage agreement shall provide for the temporary use of a portion of the CRIT Consumptive Use off the Reservation and shall not permanently alienate the Decreed Allocation. Any portion of the Decreed Allocation leased or exchanged shall not lose or change its priority under the Consolidated Decree and non-use by the recipient party shall not result in forfeiture, abandonment, relinquishment, or other loss of all or any portion of the Decreed Allocation.
- (b) The lease, exchange or Storage of a portion of the CRIT Consumptive Use shall not reduce or limit the right of the CRIT to use the full remaining Decreed Allocation on the Reservation.
- (c) Storage agreements with the CRIT shall account for the amount of water in Storage off the Reservation in accordance with applicable State law.

**Section 11. ALLOTTEE USE OF WATER**

- (a) The lease, exchange, or Storage of a portion of the CRIT Consumptive Use shall not directly or indirectly interfere with or diminish any entitlement to water for an Allottee under Federal or Tribal law.
- (b) The Secretary shall have the authority to protect the rights of Allottees to a just and equitable distribution of water for irrigation purposes, pursuant to Section 7 of the Act of Feb 8, 1887 (25 U.S.C. 381).
- (c) Before asserting any claim against the United States under Section 7 of the Act of February 8, 1887 (25 U.S.C. 381), or any other applicable law, an Allottee shall exhaust remedies available under applicable Tribal law.

- (d) Following exhaustion of remedies available under applicable Tribal law, an Allottee may seek relief under Section 7 of the Act of February 8, 1887 (25 U.S.C. 381), or other applicable law.
- (e) Following exhaustion of remedies available under Section 7 of the Act of February 8, 1887 (25 U.S.C. 381), and other applicable Federal laws, an Allottee may petition the Secretary for relief.

**Section 12. PAYMENT OF FUNDS DIRECTLY TO THE CRIT**

- (a) The leases or options to lease, exchanges or options to exchange and the Storage agreements authorized in this Act are for the economic well-being of the CRIT.
- (b) The CRIT, and not the United States in any capacity, shall be entitled to all consideration due to the CRIT under any lease or option to lease, exchange or option to exchange, or Storage agreement entered into by the CRIT.

**Section 13. LIMITATION ON LIABILITY OF UNITED STATES**

- (a) The United States shall not be liable in any claim relating to a negotiation, execution, or approval of any lease or option to lease, exchange or option to exchange, or Storage agreement for any portion of the CRIT Consumptive Use pursuant to this Act, including for any claims relating to the terms included in such lease or option to lease, exchange or option to exchange or Storage agreement for any portion of the CRIT Consumptive Use.
- (b) The United States shall have no trust obligation or other obligation to monitor, administer, or account for—
  - i. any funds received by the CRIT as consideration under any lease or option to lease, exchange or option to exchange or Storage agreement for any portion of the CRIT Consumptive Use; or
  - ii. the expenditure of such funds.

**Section 14. NO USE OF WATER OUTSIDE THE LOWER BASIN OF THE STATE OF ARIZONA**

The CRIT Decreed Allocation subject to this Act is limited to the allocation available for use in the State and none of such allocation shall be used directly or indirectly outside the part of the State that is in the Lower Basin.