



AGENDA STAFF REPORT

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Section Name: Administration
Project ID: N/A

MEETING DATE: November 8, 2022

SUBJECT: Authorize General Manager to execute Agreement No. 23-XX-30-W0749 with the U.S. Bureau of Reclamation and CVWD for the conservation of Colorado River in Calendar Year 2022 through replenishment curtailment (volume of 9,083 acre-ft)

TO: BOARD OF DIRECTORS

FROM: ADMINISTRATION, ROBERT CHENG

**GENERAL MANAGER
RECOMMENDATION:** APPROVE

RECOMMENDATION:

It is recommended that the Board of Directors authorize the General Manager to execute Agreement No. 23-XX-30-W0749 with the United States, acting through the Department of Interior, Bureau of Reclamation (Reclamation) and CVWD for the conservation of Colorado River through replenishment curtailment in Calendar Year (CY) 2022 (CY22) at a fixed price of \$261.60/af for a volume of 9,083 acre-ft (af).

BUDGET IMPACT:

No funds will be negatively impacted by this program and the revenues collected are expected to offset any applicable expenses.

PROCUREMENT METHOD:

☒ N/A

BACKGROUND

The Colorado River (River) has been experiencing prolonged drought since 2000, during which time the total system storage has declined from 57 maf (95% full) to a historically low volume of 19.54 maf in October 2022 (33% full). As of October 3, 2022, surface water elevation of Lake Powell was 3,529.51 ft (25% of capacity) and Lake Mead was 1,045.15 ft (28% of capacity), elevations not seen since Lake Powell started filling in the 1960s. Without additional actions, it is anticipated that River conditions will continue to deteriorate, threatening electrical power generation in Lake Powell and resulting in unprecedented shortage declarations in Lake Mead.

To address the worsening conditions on the River, Reclamation leadership made an appeal to all River water users in June 2022 to exercise all efforts necessary to achieve the 2 to 4 million acre-ft/yr (maf/yr) of water conservation

required to stabilize the declining system reservoir levels. CVWD's Board recognized the urgency of the issue and approved a voluntary and compensated Colorado River Water Agricultural Conservation Program in June 2022; however, this program has not yet been implemented due to external complications.

Despite this delay but understanding the need for action in CY22, staff offered up an alternative source of contribution that would present minimal impacts to CVWD customers. CVWD operates several facilities (Whitewater, Thomas E. Levy (Levy), and Palm Desert Groundwater Replenishment Facilities) which are key to groundwater management in the Coachella Valley. The Levy Facility has been consistently operating since the late 2000s to benefit the East Whitewater River Subbasin Area of Benefit (East AOB) and has averaged annual recharge of approximately 37,000 af (37 taf) in recent years. Although delivering water to the recharge facilities is important for CVWD's groundwater management, it was decided that temporarily suspending delivery to Levy would allow CVWD to achieve the goal of contributing materially to the River with minimal impacts to the region. Discussions are ongoing on what additional demand management actions within CVWD's service area might be taken to help offset the reduction in recharge at the Levy Facility. The water conservation regulations enacted by the State in June 2022 required all urban water suppliers to implement conservation actions under Level 2 of their Water Shortage Contingency Plan (WSCP) which are meant to reduce demand up to 20%. Based on recent groundwater production by CVWD and other urban water suppliers in the East AOB, successful implementation of Level 2 actions could offset suspending delivery to Levy for the remainder of CY 2022.

A determination was made that it was possible conserve this water in CY22 after discussions with Reclamation (first contact made on September 16, 2022) under an existing program. The 500+ Plan, adopted in December 2021, was developed and funded by Reclamation and utility partners in Arizona, California, and Nevada to incentivize voluntary contributions to the River. This program specified that participants would be reimbursed at \$261.60/af for verified savings. Based on historical operation, it was determined that approximately 10 taf of water may be contributed if recharge was turned off at the Levy Facility for the remainder of CY22. The annual recharge volumes (by months) are shown in the table below.

CY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	3,362	2,951	3,165	2,831	3,124	3,089	3,216	2,886	3,075	3,176	3,185	554*	34,614
2018	157*	2,746	3,193	2,796	2,980	2,520	3,342	3,339	2,854	2,964	3,130	3,327	33,348
2019	3,186	2,148	3,171	3,032	3,231	3,192	3,069	3,250	2,962	3,102	2,875	2,925	36,143
2020	3,282	3,011	2,970	2,574	3,210	3,164	3,233	3,333	3,172	3,202	3,136	3,249	37,536
2021	3,300	2,978	2,951	3,104	3,248	3,217	3,352	3,038	3,103	3,241	3,149	3,290	37,971

*Note: * In December 2017 and January 2018, Coachella Canal Lining Project was shut down for repairs; therefore, the volume of water that was replenishment during these two months was less than the average monthly replenishment volume of 3,200 af.*

Under the Reclamation's agreement, CVWD will be reimbursed for the actual verified volume of water conserved for the remainder of CY22, calculated to be 9,083 af. This volume was derived from subtracting 27,993 af (volume already recharged for CY22) from 37,076 af (most recent five-year average baseline, removing December 2017 and January 2018 data as these months did not represent normal recharge conditions). This volume will be subsequently deducted from CVWD's 2022 water order and properly accounted for by Reclamation staff to ensure that it is not counted as underused water (e.g. underrun). CVWD's expected reimbursement of \$2,376,112.80 will be paid in two installments, 1) the first 75% will be paid 60 days after the signing of the agreement and revising CVWD's 2022 water order and 2) the balance paid 60 days after Reclamation's Decree Accounting process is complete for 2022 (expected in May 2023). CVWD is currently discussing additional actions beyond CY22, and experience with this initial conservation effort should provide valuable information for future years' actions.

Based on the information presented, staff recommends that the Board authorizes the General Manager to execute the agreement with Reclamation to conserve water from the Levy Facility in CY22.

PRIOR BOARD ACTION:

N/A

DISTRICT STRATEGIC PLAN GOAL(S)/OBJECTIVES(S):

N/A

ENVIRONMENTAL IMPACT:

Approval of the 2022 Colorado River water Conservation Agreement is not subject to CEQA for multiple reasons. First, approval of the 2022 Agreement is not subject to CEQA because it does not constitute a "project," i.e., pursuant to State CEQA Guidelines §15378(a), the action has no potential to result in a direct or reasonably foreseeable indirect physical change in the environment because the action will merely establish a temporary agreement to forgo use of a small portion of CVWD's Colorado River water entitlement to assist in stabilizing reservoir levels in the Colorado River system.

Second, approval of the conservation agreement is not subject to CEQA because it does not constitute a "project," pursuant to State CEQA Guidelines §15378(b)(5). Establishing a temporary agreement without any permanent change to the previously approved entitlements constitutes an organizational or administrative activity that will not result in a direct or indirect physical adverse change in the environment not previously analyzed.

Third, even if approval of the conservation agreement did constitute a "project" subject to CEQA, the action would be exempt from CEQA review pursuant to State CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the conservation agreement may have a significant effect on the environment. The establishment of the temporary agreement will not result in adverse impacts to the environment in regards to the Coachella Valley Groundwater Basin, as no significant changes will be made to the existing agreements.

Fourth, this program will not result in expansion of use of CVWD's existing Colorado River water distribution system or groundwater recharge facilities. Accordingly, since the proposed program involves operation and implementation of CVWD's existing Colorado River water distribution facilities and groundwater replenishment facilities with no or negligible expansion of use beyond that existing at the time of the lead agency's determination, these actions qualify for a Class 1 Categorical Exemption (State CEQA Guidelines Section 15301).

Fifth, environmental impacts expected from the implementation of the 2007 Interim Guidelines for Lower Basin Shortages and the Coordinated Operations of Lake Powell and Lake Mead (Guidelines) were analyzed in an Environmental Impact Statement (EIS), pursuant to National Environmental Policy Act (NEPA) of 1969 (refer to the following link (<http://www.usbr.gov/lc/region/programs/strategies/FEIS/index.html>)). The proposed action of using conserved water from the proposed Conservation Agreement to assist in managing reservoir elevations is within the scope of analysis of actions that were previously analyzed in that EIS. Thus, to the extent the proposed actions involve or may affect areas outside of California, such as at Lake Mead or on the portions of the Colorado River in Nevada or Arizona, they are exempt from CEQA under a Statutory Exemption (Public Resources Code Section 21080(b)(14) and State CEQA Guidelines Section 15277). The proposed action of adopting the temporary Colorado River water Conservation Agreement with Reclamation in 2022 and 2023 is exempt under the provisions of CEQA and the State CEQA Guidelines.

LEGAL REVIEW

Reviewed and approved by Redwine & Sherrill

ATTACHMENTS

Att 1 - Agreement No. 23-XX-30-W0749, "Agreement Between the United States, Acting through the Department of the Interior, Bureau of Reclamation, and the Coachella Valley Water District for the Conservation of Colorado River Water"

Att 2 - NOE_Colorado River Water Conservation Agreement 2022