

## STIPULATION AND AGREEMENT

The Colorado River Indian Tribes ("Tribes"), the United States of America ("United States"), the State of California, the Metropolitan Water District of Southern California ("Metropolitan"), and the Coachella Valley Water District ("Coachella") (referred to collectively as the "State Parties"), hereby enter into the following Stipulation and Agreement.

I

### RECITALS

1. On October 10, 1989, the United States Supreme Court granted the State Parties' motion to reopen the decree in Arizona v. California, 373 U.S. 546 (1963) ("Arizona v. California I") to determine disputed boundary claims with respect to the Colorado River, Fort Mojave and Fort Yuma Indian reservations, 493 U.S. 886 (1989) ("Arizona v. California III").

2. The boundary issue concerning the Colorado River Indian Reservation ("Reservation") involves the water rights related to lands affected by the location of a portion of the western boundary of the Reservation in California. Although the controversy has also engendered litigation and uncertainty as to the legal status of the federal lands in the disputed area and ownership of the western half of the bed of the Colorado River within the Reservation, this settlement addresses only the issue of water rights.

3. The same boundary issue was presented to the Supreme Court in Arizona v. California I and 20 years later in Arizona v. California II, 460 U.S. 605 (1983), but was not resolved. Similarly, an action by Metropolitan and Coachella instituted in the United States District Court for the Southern District of California to resolve the boundary dispute was dismissed on sovereign immunity grounds. Metropolitan Water Dist. v. United States, 628 F.Supp. 1018 (S.D. Cal. 1986), dismissed, 830 F.2d 139 (9th Cir. 1987), aff'd by an equally divided Court sub nom. California v. United States, 490 U.S. 920 (1989).

4. In order to resolve the water rights issues referenced above, the United States, the Tribes and the State Parties have reached the agreement set forth below.

## II

### STIPULATION

A. Purpose. This Stipulation and Agreement settles all matters now at issue between the parties in this litigation with respect to Reservation water rights. Except as expressly provided herein, no modification of this Stipulation and Agreement without the consent of the parties shall be effective.

B. Water Rights. (1) In addition to the water rights decreed to the United States for the benefit of the Tribes in Arizona v. California I, the Tribes shall be entitled to an annual (calendar year) quantity not to exceed: (i) 2100 acre feet of diversions from the mainstream of the Colorado River; or (ii) the amount of water necessary to supply the consumptive use required for irrigation of 315 acres and for the satisfaction of related uses,

whichever of (i) or (ii) is less. The parties agree that this additional allocation shall be included in a supplemental decree to be issued by the Supreme Court at the conclusion of the present proceedings with a priority date of May 15, 1876 and subject to the same terms and conditions as apply to the water rights previously decreed to the United States for the benefit of the Tribes.

(2) Except as provided herein, the Tribes' present perfected water rights for its California lands as set forth in the 1964 Arizona v. California I Decree, 376 U.S. 340 (1964), the 1979 Supplemental Decree, 439 U.S. 419 (1979), and the 1984 Second Supplemental Decree in Arizona v. California II, 466 U.S. 144 (1984), shall remain undisturbed and shall not be affected in any manner.

(3) The State Parties shall not object to the use of the additional allocation of water provided for herein on the Reservation lands in the State of California, under the terms set forth in the 1964, 1979, and 1984 decrees in Arizona v. California during the period from the date of this Stipulation and Agreement to the date of the issuance of a supplemental decree by the Supreme Court as it relates to this dispute.

(4) The Tribes and/or the United States on behalf of the Tribes shall not claim or be entitled to any additional reserved water rights from the Colorado River for lands in the State of California other than those rights set forth in this Stipulation and Agreement and the prior decrees in Arizona v. California.

C. Disputed Boundary. The parties agree not to seek adjudication in this phase of

the litigation of the validity, correctness, or propriety of the January 17, 1969 Order of the Secretary of the Interior, Western boundary of the Colorado River Indian Reservation from the top of Riverside Mtn., Cal., through section 12, T. 5 S., R. 23 E., S.B.M., Cal., No. 90-1-5-668, 41-54 (1969 Secretarial Order). The United States and the Tribes, but not the other parties to this Stipulation and Agreement, agree that the lands described in the 1969 Secretarial Order, are included within the Reservation set aside by the Executive Order of May 15, 1876 and are held in trust by the United States for the benefit of the Tribes. The State of California disagrees, and expressly reserves the right to challenge the validity, correctness, and propriety of the 1969 Secretarial Order. The United States and the Tribes reserve any and all defenses they may have, including, but not limited to, exhaustion of administrative remedies and lack of subject matter jurisdiction, in the event the 1969 Secretarial Order is challenged.

D. Riverbed Lands. The State of California expressly reserves its claims to title to and jurisdiction over the bed of the Colorado River within the Reservation, and its respective arguments in support thereof. The United States and the Tribes expressly reserve their claim to title to and jurisdiction over the bed of the Colorado River within the Reservation, and their respective arguments in support thereof.

E. West Bank Homeowners Association. The State Parties agree to recommend to the Special Master in this proceeding that counsel for the West Bank Homeowners Association be permitted to file an amicus brief with the Special Master regarding this

agreement. The parties (1) reserve all arguments in opposition to the Association's interest in this proceeding and the right to file a brief in response to such amicus brief and (2) do not consent to, and reserve the right to object to, the filing of a Pro Se pleading by anyone.

F. Effect of Special Master's Boundary Opinions. It is the understanding and intent of the parties that, because the opinions issued by the Special Master in this litigation respecting the Colorado River Indian Reservation have not been reviewed by the Supreme Court, those opinions shall have no precedential or preclusive effect in any future litigation among the parties.

G. Scope and Effective Date. This Stipulation and Agreement merges all prior negotiations and understandings between the parties, contains their entire agreement and shall be effective upon unqualified recommended approval by the Special Master in his report to the United States Supreme Court in these proceedings and the Court's unqualified approval of the Special Master's report on this issue and the issuance of an appropriate decree.

H. Waiver. Nothing in this Stipulation and Agreement shall be deemed to create or give validity to any claim by the Tribes against the United States or in any way constitute acknowledgment of the validity of any claims by the Tribes against the United States. In addition, the Tribes hereby waive any claim against the United States arising out of:

- (a) the negotiation of this Stipulation and Agreement:

(b) the adoption of the specific terms of this Stipulation and Agreement;

or

(c) allegations concerning the lack of authority of the Tribes to enter into this Stipulation and Agreement.

This Stipulation and Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument as if all the parties to the aggregate counterparts had signed the same instrument. Signature pages of this Stipulation and Agreement may be detached from any counterpart of this Stipulation and Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Stipulation and Agreement identical in form hereto but having attached to it one or more additional signature pages.

The parties hereto have executed this Stipulation and Agreement on the date set forth to the left of their signatures.

COLORADO RIVER INDIAN TRIBES

Date: Feb. 23, 1999 By 

its Chairman

THE UNITED STATES OF AMERICA

Date: 2/16/99

By *[Handwritten Signature]*

Its *Trial Attorney*

THE STATE OF CALIFORNIA  
BILL LOCKYER  
Attorney General  
DOUGLAS B. NOBLE  
NANCY ALVARADO SAGGESE  
Deputy Attorneys General

Date: \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

THE UNITED STATES OF AMERICA

Date \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

THE STATE OF CALIFORNIA  
BILL LOCKYER  
Attorney General  
DOUGLAS B. NOBLE  
NANCY ALVARADO SAGGESE  
Deputy Attorneys General

Date January 14, 1999

By Nancy A. Saggesse

By Douglas B. Noble



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Date: 4/7

By: Tom F. Moore

Its Coastal General Counsel

COACHELLA VALLEY WATER DISTRICT

Date: \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

Date: \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

COACHELLA VALLEY WATER DISTRICT

Date: January 20, 1999

By *Steven B. Abbott*  
STEVEN B. ABBOTT  
REDWINE AND SHERRILL

Its Attorney