



2012 Supporting Position Statements
To Accompany the 2012 Resolutions of the
Colorado River Water Users Association

Adopted by the Resolutions Committee
At their Meeting on December 14, 2011
In Las Vegas, Nevada

The Colorado River Water Users Association is a non-profit, non-partisan organization providing a forum for exchanging ideas and perspectives on Colorado River use and management with the intent of developing and advocating common objectives, initiatives and solutions.

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Introduction to CRWUA's Position Statements To Accompany the 2012 Resolutions

The membership of the Colorado River Water Users Association annually update and adopt a comprehensive set of resolutions addressing the major issues, factors and externalities that affect the sharing, use and further development of the Basin's water supply. As the Colorado River is one of the most regulated rivers in the country, a complex set of state and federal statutes, regulations and judicial decrees, interstate compacts and an international treaty (collectively referred to as "the Law of the River" (LOR)) govern the allocation storage, release and uses of the River's water. The LOR dictates water resources management decisions made by the 33 million people who depend on the river for their water supply.

The CRWUA's resolutions advocate sound public policy positions that maximize beneficial consumptive use of the available water supply while appropriately conserving important environmental resources, promote storage to ameliorate drought conditions, support generation of electrical power at the many hydroelectric plants at the major federally constructed reservoirs in the River Basin and preserve the rights and prerogatives of the seven states through which the 1200-mile long river flows.

In short, CRWUA's resolutions address local, state, regional, national and international relationships among the many interdependent parties who rely on this internationally critical water supply. The resolutions are addressed to, among others, national, local and state governments and nongovernmental organizations. Position statements framing the pertinent issues and justifying and expanding upon the resolution accompany each resolution. The full text of each position statement and resolution can be quickly and conveniently accessed on the Association's website: <http://www.crwua.org/Resolutions.aspx>.

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COLORADO RIVER WATER USERS ASSOCIATION

2012 Position Statements

To Accompany the Association's Adopted 2012 Resolutions

Position Statement --- *Endangered Species Act* --- (Resolution No. 2012-1)

The Endangered Species Act of 1973 (ESA or Act) marked a culmination of federal legislative initiatives in the 20th Century to preserve plant and animal species considered endangered, including the Endangered Species Conservation Act of 1966 and the 1969 Endangered Species Preservation Act. Prior to the ESA, wildlife conservation measures were largely the responsibility of individual states. The ESA has been awaiting reauthorization since 1992. Many acknowledge the ESA is failing the public it is supposed to serve and the species it is intended to protect. Fixing the ESA is critical – for species, property owners and our nation's economy, security and well-being.

The CRWUA Supports Re-Authorization and Necessary Reform of the ESA

The Colorado River Water Users Association (CRWUA) supports implementation, reauthorization and reform of the ESA to provide consistent and reasonable conservation of endangered species. The Act can and must balance species conservation and recovery with the needs of people. Significant ESA changes, rather than bureaucratic discretion, are required to assure that balance is achieved in practice. CRWUA members are involved in efforts (including the Upper Colorado River Endangered Fish Recovery Program, the Lower Colorado River Multi-species Conservation Program, and the San Juan River Basin Recovery Implementation Program) demonstrating cooperative conservation partnerships can work to recover endangered species while allowing continued water use and development. We need a new 21st century ESA.

Recognizing the need to focus on the most important needs first, the CRWUA's focus is on three goals: 1) increasing the role of the states; 2) streamlining the Act; and 3) increasing certainty and direct involvement for landowners and water users.

Reauthorization of the ESA must include reforms to greatly strengthen the role of the states in listing decisions, critical habitat designations, recovery planning, habitat conservation plans, "safe harbor" agreements and more. Alternatives to the rigid, ESA-mandated listing and federal recovery planning regulations are desperately needed. Cooperative agreements providing authority for states and involved entities to initiate threatened and endangered species conservation programs should be encouraged. These agreements should include landowner certainty provisions and incentives. Cooperative species conservation actions, including candidate species conservation agreements, should be given preference in lieu of ESA species listings. The ESA should provide authority to initiate species conservation plans in advance of listing. If implemented, these plans should provide automatic incidental take permits upon subsequent listing as a means to provide meaningful landowner incentives - and thus enhance opportunities to avoid a species listing. Importantly, the ESA should authorize conservation plans that are focused on habitat and ecosystem conservation rather than being species-specific.

Increasing certainty for landowners and water users begins with fundamental respect for existing law and rights. The notion the ESA “trumps” other existing law is of tremendous concern to all except those who seek to maintain cost-free land use control through species listing as an end in itself. The Act must be carried out in a manner consistent with other federal laws, authorities and purposes, including the trust responsibility of the United States. The Act cannot abrogate, supersede, supervene or supplant the United States Constitution or the Bill of Rights. The Act cannot be used or construed to permit or justify the involuntary appropriation of property of others, including contractual rights in existence at the time of a species listing.

The ESA Does Not Create Federal Water Law or Federal Rights to Water

Despite efforts by some to do so, the ESA shall not be construed or used to impair, abrogate, supersede, amend or reallocate vested water rights granted by the respective states for beneficial uses; or the rights of beneficiaries to use water as are or have been established by confirmed contracts. The same is true as to the rights of Indian Tribes established by treaty, statute, settlement or decree and for water apportionments made by interstate compact or U. S. Supreme Court decree. Existing historical water uses and depletions and operation, maintenance and repair of existing water storage, diversion and conveyance facilities should be exempt from the ESA. The federal government should not acquire land or water, except on a willing seller/willing buyer basis consistent with state substantive and procedural law, nor should it impair the right to receipt and/or delivery of water within a Reclamation project under existing water storage, repayment or water service contracts.

Designation of Critical Habitat Is Not An Effective Conservation Tool

In 30-plus years of implementing the ESA, the United States Fish and Wildlife Service has found that the designation of critical habitat provides little additional protection to most species while consuming significant amounts of conservation resources and furnishing landowners with negative impressions. America’s farmers, ranchers and private property owners have the most important role in saving endangered species as 90 percent of endangered species in the U.S. have habitat on private land. Research has shown that the current “up-front” and inflexible ESA critical habitat designation procedures have created disincentives for species recovery, rather than improving their plight.

A combination of factors has distorted the structure under which critical habitat was designed to function. The ESA currently requires agencies to designate critical habitat at the same time a species is listed as endangered or threatened. Designation of critical habitat should be made at or after the recovery planning stage, when there is sufficient information available to decide what habitat is essential for conservation of the species. Critical habitat designations should be made based on sound science and should be narrow, specific and precisely define the included areas. Areas of unoccupied habitat should be excluded unless sufficient information identifies it as truly essential for the species. Areas covered by habitat conservation plans (HCPs) should be excluded from critical habitat designations. No designation of critical habitat should occur within areas where an “ecosystem management approach” has been adopted to manage resources to facilitate species recovery and avoid listings. Providing “no surprise” assurances for HCPs and Section 7 consultations affecting non-federal parties would encourage public acceptance and involvement.

Critical habitat should not be designated until realistic, peer-reviewed economic analyses have fully evaluated the costs of species listing and critical habitat designation. The federal government must fully inform the public and other governmental entities of the social and economic costs and benefits of designating critical habitat. ESA administrative actions, including listing, critical habitat designation, and publication of recovery plans, should be taken only after compliance with the National Environmental Policy Act.

The development of recovery plans and the recovery of threatened and endangered species, including the provision of adequate funding, is a federal obligation, unless and until full partnership efforts are established. Recovery plans should identify:

- quantified goals, a recovery date target and the probability of recovery;
- critical habitat essential for conservation and recovery of the species;
- actions and realistic estimates of those actions' cost necessary for recovery; and,
- potential social and economic impacts associated with achieving recovery.

The ESA should unequivocally support artificially propagating populations of endangered species in order to achieve self-sustaining populations and encourage the designation of experimental non-essential populations to facilitate recovery efforts. Where competition between native species and introduced species is a significant factor, responsible artificial propagation may be the only means to recover a species.

Listing and Delisting Procedures Need Significant Improvements

Listings, designations of critical habitat and recovery plan development often are not accompanied by adequate public notice and involvement. The ESA should provide more meaningful opportunities for landowners and citizen consultation and involvement. The public has a right to know whether it will be impacted due to actions implementing the ESA.

Decisions regarding the listing, protection and recovery of endangered species and designation of critical habitat should be based on adequate, verifiable, peer-reviewed, ground-proofed, scientific information subjected to public scrutiny. The Act should protect only those taxonomic groups that may be significantly different from other groups within the species.

Decisions to list or delist species, designate or rescind critical habitat and approve recovery plans should be made by the Secretary in a timely manner, after independent review of the record, only after appropriate consultation with the Governor or Governors of the state or states impacted by the decision, affected Indian tribes and after a public hearing in the affected area upon receipt of a petition therefore by an interested party. Individuals or entities whose property or economic interests may be adversely impacted by ESA actions should have standing as parties in ESA litigation and should have "applicant" status in Section 7 consultations.

The Act should provide for periodic review of species listings, critical habitat designations and recovery plans to determine if such actions continue to be necessary for the continued existence of a species. An administrative process to down-list and delist species should be automatically triggered when the quantitative goals and targets of a recovery plan are met. The Secretary should be given the flexibility to down-list or delist species along state geographic

boundaries, when recovery goals within a state or regional recovery program consistent with the purposes of the ESA have been met.

Current ESA Funding is Inadequate to Accomplish ESA's Purposes

Finally, ESA funding at the federal and state levels must increase significantly to address the growing list of threatened and endangered species. Existing levels of expenditures to meet the need to protect species and their habitat are inadequate, particularly as state and federal agencies increasingly assume ESA management activities and embrace ecosystem management strategies. Inadequate funding remains a tremendous impediment to the ESA and is the direct cause of burdens being unfairly placed on local communities and owners of private property.

Position Statement --- *Clean Water Act* --- (Resolution 2012-2)

The issue described in item 15 of the "NPDES Permits" section of Resolution 2012-2 is addressed by the decision of the United States Court of Appeals for the Eleventh Circuit in *Friends of the Everglades vs. South Florida Water Management District* where the Court of Appeals upheld the final Water Transfer Rule published by EPA on June 13, 2008, and ruled that the water transfers at issue did not require an NPDES permit.

In response to petitions for rehearing *en banc* in the *Friends of the Everglades* case, EPA indicated that it was planning to reconsider the rule. In addition, the Council on Environmental Quality has created a federal interagency task force under EPA to undertake a review of the rule. The negative economic and social impacts of imposing an NPDES permit on water transfers could be extremely disruptive to the tens of millions of Western residents who depend upon the extensive water infrastructure conveying water resources across the vast distances of the West. EPA should leave the rule in place.

Congress should preserve the existing limited exemptions from NPDES permitting provided by Section 402(l) of the Clean Water Act by reaffirming that discharges composed of irrigation return flows and discharges of storm waters not subject to permitting under Section 402(p) of the Act are exempt.

In any clarifying amendments to the Federal Water Pollution Control Act of 1972, federal jurisdiction over surface waters of the U.S. should not be expanded. Any definition of "waters of the U.S." added to the Act should be consistent with the language set forth in 40 CFR 122.2.

Congress should ensure that irrigated agricultural conveyance systems are not considered to be "waters of the U.S." and that traditional irrigation canal and drainage system management practices can continue free of federal oversight.

Position Statement --- *Reclamation* --- (Resolution No. 2012-3)

One of the biggest problems facing water districts today is the timely rehabilitation of existing infrastructure. As existing facilities and infrastructure continue to age, many districts are increasingly faced with rehabilitation costs that far exceed their ability to repay under current regulations. We believe it is imperative that the Bureau of Reclamation and Congress address

this growing problem before it becomes a crisis situation. Water users are simply looking for a program that will allow them to accomplish much needed rehabilitation work and repay the costs over a reasonable period of time.

Inadequate precipitation in the American West required settlers to apply irrigation water for agriculture to succeed. As demand for water increased, Westerners sought Federal Government investment and assistance with water storage and irrigation projects, recognizing similar Congressional investments for roads, river navigation, harbors, canals and railroads. The irrigation movement demonstrated its strength when pro-irrigation planks found their way into both Democratic and Republican political platforms in 1900. Congress responded to these expressions of need with the passage of the Reclamation Act of June 17, 1902. The Act required that water users repay construction costs for projects from which they received benefits.

Reclamation's projects and the water provided on an annual basis are of critical importance to the Western States. The Reclamation program has been a prominent part of western U.S. development and Reclamation operates about 180 projects in the 17 Western States. The total Reclamation investment in completed facilities exceeds \$12 billion and these completed works provide agricultural, municipal and industrial water to about one-third of the American West's population. Over 9 million acres are irrigated with water supplied in whole or in part by Bureau of Reclamation projects. Reclamation is a major American generator of electricity through the operation of 56 hydropower plants associated with its projects. In the West, water infrastructure is every bit as important as transportation infrastructure. It is essential to the continued economic growth and development of the region.

Given the huge investment made by the Federal Government and the involved water users; the critical, life-sustaining importance of the water resources managed by the Reclamation projects; and the water supply challenges being faced in the West (the most rapidly growing portion of the United States), it is essential that Reclamation adequately and properly attend to its water user constituency and responsibly discharge its fiduciary and resource management responsibilities. The enormous financial investment in these critically important water projects must be protected through adequate annual maintenance and rehabilitation expenditures. As these projects were constructed over the past 100 years, adequate and timely annual financial investment must be made to offset the effects of age and deterioration of the concrete and steel infrastructure in these projects. Deferring adequate maintenance, rehabilitation and updating activities will ultimately lead to increased future expenditures and may lead to loss of life and property and necessitate dealing with emergency circumstances. Sound public policy demands adequate federal maintenance and rehabilitation expenditures in recognition of the absolute necessity and enormous dependence on Reclamation projects to provide adequate and reliable water supply in the arid West.

Position Statement --- *Colorado River Salinity Control* --- (Resolution 2012-4)

The Colorado River provides important water supplies for about 33 million Americans in Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. Nearly 4 million acres are irrigated in the United States. The Colorado River also serves about 3 million people and half a million acres of irrigated farmlands in the Republic of Mexico. The Colorado River Basin Salinity Control Act (CRBSCA) (PL 93-320) provides the means for the United States to

meet the national water quality obligation to the Republic of Mexico established in 1972 by Minute 242 of the International Boundary and Water Commission and to maintain the Basin-wide water quality standards adopted by the seven Colorado River Basin States and approved by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act.

The seven Colorado River Basin States and their water users have consistently worked with the executive, legislative and judicial branches of the federal government to assure a fair and effective allocation of the River's water supply within the terms of the Law of the River. Preserving the Basin States' abilities to develop their apportioned water supplies necessitates maintenance of the Basin-wide water quality standards for salinity. At current salinity levels, the economic damages from high salinity currently experienced by municipal, industrial and agricultural users of Colorado River water in the U.S. are estimated to be \$330 million per year.

In 1974, Congress enacted the CRBSCA to implement the 1973 salinity agreement with Mexico as well as a program for controlling Colorado River salinity levels within the United States in accordance with the Basin-wide water quality standards for salinity. In 1984, PL 93-320 was amended to authorize a new voluntary, cost-shared, on-farm salinity control program by the Department of Agriculture and to develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management. In 1995, Congress enacted PL 104-20, which provides the Bureau of Reclamation with programmatic authority to initiate new federal and non-federal salinity control measures. In 1996, the USDA's program was combined with three other programs into the newly created Environmental Quality Incentives Program (EQIP) by the Federal Agriculture Reform and Improvement Act (PL 104-127). In 2000, PL 106-459 amended the Colorado River Basin Salinity Control Act to increase the appropriation ceiling for the Bureau of Reclamation's programmatic authority by \$100 million. In 2002, Public Law 107-171 reauthorized EQIP under which the Secretary of Agriculture carries out salinity control measures. Section 2806 of the Food, Conservation and Energy Act of 2008 (PL 110-246) created the Basin States Program expressly authorizing salinity control practices using Basin Funds.

Pursuant to the Colorado River Basin Salinity Control Act, repayment to the Federal Treasury has been made from the Upper Colorado River Basin Fund (with Colorado River Storage Project hydropower revenues being the source of Basin Fund monies) and the Lower Colorado River Basin Development Fund for the majority of the Bureau of Reclamation and Department of Agriculture (USDA) salinity control program expenditures. Since 1996, upfront cost-sharing, allowing additional leveraging of Upper and Lower Basin funds with appropriated and EQIP funds to accomplish additional salinity control measures, has been occurring as authorized by the CRBSCA amendments. In addition, farmers participating in the USDA component of the Program share in the costs of implementing the salinity control measures.

In recognition of the Congressional inclusion of USDA's Colorado River Basin Salinity Control Program (CRSCP) in the Environmental Quality Incentives Program (EQIP) of PL 104-127, the Department of Agriculture should take all necessary steps to ensure that salinity control proposals receive adequate funding under EQIP. The Administration must request and Congress must appropriate sufficient funding for the Colorado River Basin Salinity Control Program to the Bureau of Reclamation and to the Bureau of Land Management.

**Position Statement --- *Settlement of Indian Reserved Rights* ---
(Resolution No. 2012-5)**

Efforts to establish more equitable Indian water rights will only be successful when the federal government is actively involved. Financial resources must be appropriated in a timely manner to implement these settlements and the federal government must be creative in finding funding solutions. Where the water will come from to fill these new rights continues to be the subject of much debate.

Indian water right claims based on reserved water rights for federal reservations are established under the Winters Doctrine. Water rights adjudication is the process by which states give water usage rights to local individuals and entities. This process is often long and cumbersome and involves making decisions about how to distribute water amongst competitive and conflicting claims.

**Position Statement --- *Uranium Mill Tailings Pile near Moab, Utah* ---
(Resolution No. 2012-6)**

The Colorado River provides important water supplies for about 33 million Americans in Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. Nearly 4 million acres of farmland are irrigated in the United States. The Colorado River also supplies water to about 3 million people and half a million acres of irrigated farmlands in the Republic of Mexico. Therefore, protection of water quality from sources of contamination is critical. The CRWUA is committed to source protection as a strategy preferable to treatment by downstream users.

The 16 million ton pile (covering 130 acres; 94 feet high) of uranium mill tailings (located 750 feet from the Colorado River, 150 miles upstream of Lake Powell) left by the Atlas Corporation near Moab, Utah is currently leaking uranium and other contaminants into the groundwater under the pile at an estimated rate of 20 gallons per minute. This groundwater is seeping into the Colorado River.

Public Law 106-398 enacted by Congress in October 2000 directed the Department of Energy (DOE) to prepare a plan and to commence remediation of the Moab site as soon as practicable after the completion of the plan. The DOE was directed to conduct remediation at the Moab site in a safe and environmentally sound manner, including groundwater restoration; and to remove, to a site in the State of Utah, for permanent disposition and any necessary stabilization, residual radioactive material and other contaminated material away from the floodplain of the Colorado River. As the final step in complying with the National Environmental Policy Act, DOE signed its Record of Decision on September 14, 2005, and announced the awarding of a contract for design and installation of a tailings-removal waste handling system, initial tailings movement and operations to relocate the Moab tailings and associated wastes to the Crescent Junction site. The process of moving the tailings began on April 20, 2009. In November, 2009, the project began shipping containers on two trains per day and increased the number of cars in each train.

The CRWUA supports this DOE project relocating and properly disposing of the tailings pile. The CRWUA supports additional Congressional appropriations as necessary to accomplish the relocation of the mill tailings pile as soon as practical.

Position Statement --- *Colorado River Delta* --- (Resolution No. 2012-7)

There has been much discussion in recent years about the enhancement and restoration of riparian habitat in the Lower Colorado River Delta located in Mexico. Some have suggested that a portion of the Colorado River water supply be committed to that purpose. The U.S. government has stated repeatedly that the 1944 Mexican Water Treaty allocations will not be revisited and there will be no reallocation of water from the United States to Mexico. The Colorado River Basin States and their water users have consistently worked with the United States, particularly through the International Boundary and Water Commission and the Republic of Mexico, to address issues of mutual concern. The Basin states have pledged continuing cooperation and stated their desire to be active participants with the Federal Government in addressing Colorado River Delta matters. Efforts to improve the environment in the Colorado River Delta will require study and clearly articulated and agreed upon habitat, species, and environmental goals.

It is critical that there be strict adherence to the Law of the River upon which the Basin states and their water users rely for certainty and predictability within the continuing dialogue about Colorado River Delta matters. Under the Law of the River, the waters of the Colorado River have been fully appropriated and include water for all needs in Mexico. As a result, any alternatives to assist Mexico will require innovative solutions involving conservation, improved water management and non-water related actions.

The CRWUA supports the establishment by the two countries of a common database on their laws and institutions, the operation and management of existing water delivery systems, hydrologic conditions, and the status of species and habitat in the Delta. This information will enhance technical analyses as well as further cooperative efforts among the two countries. International cooperation that has existed between the two countries regarding the Colorado River must continue and include participation by the Basin States.

Position Statement --- *Use and Maintenance of Water Supply Facilities* --- (Resolution No. 2012-8)

The water supply infrastructure in the West should be used to the maximum benefit of the nation. Additional water storage is essential to meet the growing demand for water in a “fastest growing” region. Nine of the ten fastest growing cities of the nation are in the West.

Water transfers play a vital role in water supply. The federally constructed water infrastructure of the Colorado River Basin provides opportunities for meeting supply challenges. The Colorado River Water Users Association urges the Department of the Interior and Bureau of Reclamation to exercise their maximum legal authority to facilitate appropriate water supply and water transfer projects.

Once hydrologic conditions improve after the continuing severe multi-year drought plaguing the Colorado River Basin and most of the western United States since 2000, the Bureau

of Reclamation should do its utmost to build reservoir conservation storage back to pre-drought conditions in each of the reservoirs which it manages.

**Position Statement --- *The Department of the Interior's WaterSMART Initiative*
--- (Resolution No. 2012-9)**

On February 22, 2010, Secretary of the Interior Ken Salazar signed a Secretarial order establishing a new water sustainability strategy for the United States, known as WaterSMART. The "SMART" in WaterSMART stands for "Sustain and Manage America's Resources for Tomorrow." This Initiative is aimed at improving water management by encouraging voluntary water banks; assisting local communities by partnering with non-Federal stakeholders to develop incentives and best practices for implementing water conservation and waste recycling projects. As part of his order, Salazar announced that he is directing the Department to increase available water supply for agricultural, municipal, industrial, and environmental uses in the western United States by 350,000 acre-feet by 2012. The Colorado River Water Users Association supports these efforts.

The American West is now the fastest growing region of the country and faces serious water challenges. The prolonged drought in the Western States, population growth in areas with existing water supply challenges, and increased need for water for energy production purposes, are exacerbating the demand for water and challenging traditional water management approaches. At the same time, historically "normal" rainfall and snowpack conditions in the West appear to be shifting due to climate change.

The Department of the Interior has an important role to play in providing leadership and assistance to States, Tribes, and local communities to address competing demands for water. The WaterSMART Initiative commits the Department of the Interior to pursue a sustainable water supply for the Nation by establishing a framework to provide federal leadership and assistance on the efficient use of water, integrating water and energy policies to support the sustainable use of all natural resources, and coordinating the water conservation activities of the various Interior bureaus and offices. This Initiative envisions that DOI's efforts will contribute to the development of domestic expertise in water-related technologies and sustainable water management practices, thereby enhancing U.S. competitiveness in providing solutions to worldwide water issues in the 21st century.

Position Statement --- *Maintaining Financial Stability of the Upper Colorado River Basin Development Fund* --- (Resolution No. 2012-10)

The federal CRSP hydropower and delivery systems were authorized by Congress to provide a wide range of significant benefits to millions of citizens in the West, including:

- Flood Control
- Irrigation
- Municipal water supply
- River regulation
- Interstate and international compact water deliveries
- Lake and stream recreation
- Blue ribbon trout fisheries
- Economic development

- Fish and wildlife propagation and mitigation
- Power generation and transmission

Funding for repayment of federal investment in the CRSP storage features and participating irrigation projects, and the operation and maintenance of the CRSP facilities and staff of the U.S. Bureau of Reclamation (USBR) and the Western Area Power Administration (Western) is provided through power revenues maintained in the Upper Colorado River Basin Fund. A portion of the costs associated with the Colorado River Salinity Control Program, the Glen Canyon Adaptive Management Program, the Upper Basin Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program are funded through the Upper Colorado River Basin Fund.

**Position Statement --- *Management of Lower Colorado River Water Supplies* ---
(Resolution No. 2012-11)**

Additional storage is needed for the beneficial use of Colorado River water. Additional regulatory storage near the All-American Canal is being built. Removal of sediment from behind Laguna Dam is in progress. Both projects will reduce the drawdown of up to 200,000 acre-feet of water annually beyond the commitment to the Republic of Mexico.

Each year that passes without the operation of the Yuma Desalting Plant (YDP) represents a loss of approximately 100,000 acre-feet. Timely action to operate the YDP is critical. The continuing multi-year drought in the basin has resulted in tremendous storage reductions in Lake Powell and Lake Mead.

Improving Management of Flows from Parker Dam

Water released from Parker Dam flows to Imperial Dam. There diversions are the greatest and the ability to regulate flows is the least. Changes in weather conditions, water use orders, and inflows affect river management. Limited storage is available in Senator Wash Reservoir. This reservoir is designed for storage of over 12,000 acre-feet, however, operating restrictions limit storage to approximately 7,000 acre-feet.

The Warren H. Brock Reservoir has been constructed East of the Imperial Valley near Drop 2 of the All-American Canal with 8,000 acre-feet of storage. Benefits from the Warren H. Brock Reservoir include conserving reservoir system storage, improving river regulation and water delivery scheduling, providing opportunities for water conservation, storage and conjunctive use programs, and setting the stage for new cooperative water supply and water quality management endeavors with Mexico.

In addition to the Warren H. Brock Reservoir, there is a need to restore regulatory storage. Removal of sediment behind Laguna Dam permits additional storage and enhanced management of the river. Habitat restoration and enhancement within this project area may be implemented under the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). The LCR MSCP has developed a plan for habitat restoration in the area behind the dam. The habitat restoration elements of the plan would create wetlands and riparian habitat in or parallel to the excavated channel.

Yuma Desalting Plant

An average of 100,000 acre-feet bypasses the YDP to Mexico every year. The United States is required to replace these bypassed flows. The YDP is the only feasible method for treating water for discharge into the river and delivery to Mexico. Operating the YDP would reduce the system drawdown by approximately 100,000 acre-feet annually.

Position Statement --- *Augmentation of Colorado River Water Supplies* --- (Resolution 2012-12)

The CRWUA fully supports the Basin States' proposal to accomplish a significant amount of water supply increase (e.g., augmentation) in the Colorado River Basin. It is useful to note that the Seven Colorado River Basin States' April 23, 2007 Agreement Concerning Colorado River Management and Operations contains a mutual commitment by the Parties to:

“... diligently pursue interim water supplies, system augmentation, system efficiency and water enhancement projects within the Colorado River System. The term ‘system augmentation’ includes the quantifiable addition of new sources to the Colorado River Basin, including importation from outside the Basin or desalination of ocean water or brackish water ... The term ‘water enhancement’ includes projects that may increase available system water, including cloud seeding and non-native vegetation management. Due to the critical importance of implementing these projects in reducing the potential for shortages, the Parties shall continue to jointly pursue the study and implementation of such projects, and to regularly consult on the progress of such projects.”

In their letter of April 30, 2007 to the Secretary of the Interior, commenting on the draft environmental impact statement on Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (DEIS), the Basin States wrote:

“Implementation of projects to augment the long-term supply of the Colorado River is of utmost importance not only to the Basin States and the millions of people who live here, but to the nation as a whole. While no specific augmentation projects are included in the current Basin States' Proposal, the need to develop a process to implement augmentation projects must remain at the forefront of the Basin States' and Interior's agendas. Changes to existing or new federal regulations may be necessary to effectuate augmentation projects.

The Preliminary Proposal outlined a concept for water users in Arizona, California, or Nevada to secure additional water supplies by funding the development of a non-Colorado River System water supply in one Lower Division State for use in another Lower Division State by exchange. Through the cooperation of the International Boundary and Water Commission, United States and Mexico, similar arrangements could be established by which non-Colorado

River System water supplies in Mexico could be developed for use in the United States by exchange.

The Basin States view the inclusion in the DEIS of a quantitative analysis of the impacts to the Colorado River resulting from the implementation of future augmentation projects as a positive step and encourage you to include the same analysis in the FEIS in order to begin to establish the environmental compliance framework for future augmentation projects.”

Fortunately, a comprehensive review of water supply and current and long-term demands within the Colorado River Basin got underway in January 2010. On September 18, 2009, the Commissioner of Reclamation announced a new Basin Study Program to better define options for future water management of Western river basins where climate change, record drought, population increases and environmental needs have heightened competition for scarce water supplies.

The Colorado River Basin Water Supply and Demand Study was one of three initial studies announced. This study will quantify future water supply and demand on a basin-wide scale, assess the impacts of climate change on water resources; analyze how the Basin's existing water and power operations and infrastructure will perform in the face of changing water realities; and make recommendations on how to optimize operations and infrastructure to supply adequate water and power in the future while accounting for environmental values. Reclamation provided a 50% cost share contribution (\$1 million by Reclamation) which has been matched by \$1 million by the seven Colorado River Basin States and/or major water districts within the States. In April 2011, Reclamation’s Director of Policy and Administration approved a request made by the Lower Colorado Regional Office to extend the Study end-date to July 2012, due to the scope and technical complexity of the Study, the outreach effort needed to ensure participation and input from stakeholders throughout the Basin and the availability of applicable data, primarily regarding future water demands. In addition, Reclamation and the seven Colorado River Basin States and/or major water districts within the States have committed to additional cost-sharing so as to bring the total resources available for the Study to \$5.1 million.

Position Statement --- *Potential Climate Change* --- (Resolution No. 2012-13)

The potential for climate change is a matter of considerable public discussion. The possible causes and impacts are the subject of heated debate. Many scientists assert that climate change will continue to affect global temperatures, sea levels and precipitation patterns. It is appropriate to take into account the possibility that climate change could affect patterns of precipitation, snowpack, runoff and related water resource factors in the Colorado River Basin. The CRWUA urges the Bureau of Reclamation, each of the Basin States’ water management and water development agencies, and each water purveyor within the Basin to implement increased system capacity to reliably provide water supplies to areas of critical demand, in accordance with applicable law.

**Position Statement --- Hoover Power Allocation Act ---
(Resolution No. 2012-14)**

The Boulder Canyon Project Act of 1928 authorized the Secretary of the Interior to construct hydroelectric generating facilities as part of the project. The 1928 Act further authorized 50-year contracts for the delivery of the power. The power contracts went into effect in 1937 with the commencement of power generation.

When disputes arose over the high rates originally charged for the power, the Basin States negotiated a resolution of the disputes that resulted in the 1940 Boulder Canyon Project Adjustment Act. The 1940 Act provided for the power to be sold at rates sufficient to re-pay the federal government for the cost of constructing and operating the project, with interest, over the 50-year term of the power contracts. When the expiration of the initial contracts was imminent, new disputes arose over renewal of those contracts and the allocation of the power.

The disputes were again resolved through negotiations, with the resolution incorporated into the Hoover Power Plant Act of 1984. The 1984 Act authorized the improvement of the generating facilities to increase the capacity of the power plant and the execution of new contracts based on allocations specified in the legislation. The contracts issued under the 1984 Act will expire in 2017, and the Western Area Power Administration has issued notice that it will commence an administrative process for determining how to market the hydroelectric power generated at Hoover Dam.

The administrative process proposed by WAPA creates the potential for new disputes to arise among the parties with existing allocations and those seeking to utilize Hoover power. As in the past, the power agencies within the Lower Basin States have negotiated a compromise allocation that avoids such disputes and makes a portion of the hydroelectric power available for new users within the marketing area for this power resource. As in 1984, the compromise would be implemented by adoption of federal legislation directing the allocation of power. The proposed legislation, called the Hoover Power Allocation Act, is expected to be signed into law in the Second Session of the current Congress.

The proposed legislation preserves a major portion of the power allocation for existing contractors in recognition of their substantial investments in the construction and upgrading of the Hoover power plant. This has been the practice of WAPA in previous power remarketing efforts of federal hydropower resources. These contractors have further made substantial long-term investments in transmission facilities based on their use of Hoover power. Through the end of the current contract term, the power contractors will have expended approximately \$1.9 billion to construct, upgrade, and operate Hoover power equipment. In addition, the Lower Colorado River Multi-Species Conservation Program was adopted in 2005 to establish the basis for operating the water and power facilities on the River in compliance with the federal Endangered Species Act. This 50-year program will be implemented at a cost of over \$600 million. The Hoover power contractors are contributing their share through payments made by each Lower Basin State. The Hoover Power Allocation Act will protect the investment these contractors have made to the very existence of the Hoover Power Plant and will further provide certainty for their future power planning needs.

To allow for expansion of the use of Hoover power, five percent of the existing power generation will be set aside to be marketed to new users. This new power pool is allocated for distribution within the Hoover power marketing area within the three Lower Basin States. The proposed legislation will avoid disputes among the existing contractors while allowing expansion of the power supply to new users. Congress should support the negotiated resolution of the Hoover power issues as it did in 1940 and 1984. CRWUA supports enactment of the Hoover Power Allocation Act proposed by the Lower Basin States.