



## Cultivating Conservation

### MEMO

TO: Salton Sea Authority Board of Directors and G. Patrick O'Dowd  
FROM: Lisa Moore  
RE: **Federal Report**  
DATE: August 18, 2022

The August report describes the recently enacted Inflation Reduction Act (IRA) Colorado River drought provisions and related federal legislative efforts. The legislation is intended to help mitigate the economic and environmental impacts of Reclamation's recent call for 2-4 million acre feet of conserved water from the Colorado River. On August 16, Reclamation declared a Tier IIA Colorado River shortage based on declining water levels in Lake Mead, triggering major water use reductions in Arizona, Nevada and Mexico under the terms those parties agreed to in the 2019 Drought Contingency Plan (DCP).<sup>1</sup> Attached to this memo, you will find the Authority's press release on the IRA, the related Desert Sun article, the recent Authority letter to CNRA Secretary Crowfoot, and a related Torres Martinez Tribe letter to Interior Secretary Haaland.

#### **Inflation Reduction Act/Colorado River Drought**

The IRA was signed by President Biden on August 16, 2022 and included drought, climate/energy and health care provisions. The law is a scaled back version of the Build Back Better legislation that dominated Congressional action for much of 2021. While that earlier legislation did not include specific provisions targeted to Colorado River drought, working with our Congressional delegation and other stakeholders, the Authority advocated for the inclusion of robust authority and funding for Interior to address the impacts of its sought Colorado River cuts, including impacts to the Salton Sea.

As enacted, the law provides **\$4 billion** in funding for water rights purchases, water conservation, and **ecosystem restoration** for inland lakes affected by drought in the basin, and specifically underscores that the legislation does not void federal environmental laws. The law was enacted pursuant to a special legislative process called reconciliation that limits the ability to earmark funding more specifically.

As Colorado River negotiations continue, it is very important to distinguish between the IRA's \$4 billion in funding and other Salton Sea related legislative efforts. The IRA's \$4 billion may be mobilized without further Congressional action. That is, unlike most legislation which requires first an act of Congress to authorize spending and then a subsequent act of Congress to appropriate that spending, this \$4 billion requires no further Congressional action to be used by Interior to protect the Salton Sea.

This differs from legislation like Senator Padilla and Congressman Ruiz's Salton Sea Projects Improvement Act, which authorizes Interior to spend an additional \$250 million on Salton Sea

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<sup>1</sup> California reductions under the DCP come into play at Tier IIB, which could be triggered by Reclamation if Mead elevations continue to fall.

projects, including in conjunction with the Authority. After it is enacted, we will need to secure the enactment of federal appropriations legislation to mobilize this funding. This funding is likely to be provided incrementally and over time — it took 30 years to fully appropriate the initial \$10 million Congress initially authorized Reclamation to spend at the Sea. This legislation is a typical authorization bill. Likewise, our current effort to undertake a long-range feasibility study with the Corps of Engineers — which is proceeding well — will ultimately require future acts of Congress to actually appropriate funding to undertake the work called for in the study.

The fact that these other measures (the Salton Sea Projects Improvement Act and Corps feasibility study) require future acts of Congress to mobilize funding from them — an effort which is by its nature uncertain — underscores the importance of not relying on these measures to address the current mitigation needs associated with Colorado River cuts that may occur in the near term. The new \$4 billion fund is the most reliable and assured source of funding to address those impacts.

It is worth noting that during the last major Colorado River negotiations over the 2019 DCP, the Authority and IID argued that federal mitigation funding was needed if additional water conservation measures were to be implemented in the Salton Sea basin. At that time, this request was not supported by Interior or the basin states. Instead, these parties sought federal legislation to remove the environmental and public health protections that form the basis of that federal Salton Sea mitigation obligation. The Authority and IID succeeded in defeating that legislation. It is a testament to your work at that time and since, that the IRA legislative negotiations concerning Colorado River drought embraced the need to forthrightly address the impacts of Colorado River water conservation on the Salton Sea and surrounding communities and affirmed the environmental laws which protect our region.

# Desert Sun.

## ENVIRONMENT

# Senators add \$4 billion for Colorado River drought relief into Inflation Reduction Act



**Janet Wilson**

Palm Springs Desert Sun

Published 6:19 p.m. PT Aug. 5, 2022 | Updated 3:23 p.m. PT Aug. 7, 2022

The massive climate and healthcare package that passed Sunday in the Senate includes \$4 billion to help shore up the rapidly dwindling Colorado River and its massive reservoirs.

California officials who are pushing to meet an August deadline for huge water savings in Lake Mead and Lake Powell praised the bill's passage.

The funds, to be administered by the U.S. Bureau of Reclamation over the next four years, could be used to pay farmers, rural districts and others to fallow crops and install efficient watering technology, or to pay for other voluntary water reductions in the Lower and Upper Basins, which combined provide drinking water and irrigation to nearly 40 million people across seven states and Mexico.

That could be a crucial piece of intense negotiations between the states and federal government about how to best meet a mandate from Reclamation Commissioner Camille Touton to figure out by mid-August how to conserve 2 million to 4 million acre-feet of water. An acre-foot is enough to supply one to two households with water for a year. Officials with two powerful southern California agencies — the Imperial Irrigation District serving rural farmers and the Metropolitan Water District serving greater Los Angeles — are haggling over 400,000 acre-feet in possible reductions, as reported Thursday by The Desert Sun.

Lawn removal could also qualify for rebates, and habitat restoration projects to address issues directly caused by drought, such as continued losses to the Salton Sea, would also be funded.

"The bill ... includes billions of dollars that I helped secure to address catastrophic wildfires and historic drought in the West – with priority given to the Colorado River Basin and inland water bodies like the Salton Sea," said U.S. Sen. Alex Padilla, D-California in a statement.

In a statement announcing the deal on Thursday, U.S. Sens. Mark Kelly, D-Arizona, Michael Bennet, D-Colorado, and Catherine Cortez Masto, D-Nevada, said: "The Western United States is experiencing an unprecedented drought, and it is essential that we have the resources we need to support our states' efforts to combat climate change, conserve water resources, and protect the Colorado River Basin. This funding in the Inflation Reduction Act will serve as an important resource for Nevada, Arizona, and Colorado, and the work we've done to include it will help secure the West's water future." All three senators are up for re-election this November.

Although not mentioned in that announcement, California would also likely receive a major portion of the drought funds.

On Sunday, U.S. Senator Feinstein, D-California, said in a statement, "This language, which my staff negotiated with Senators Kelly, Sen. (Krysten) Sinema (D-Arizona) and others, will help ensure that critical water deliveries from the Colorado River continue as the state expands sustainable water practices like water recycling and conservation.

The bill will also fund water infrastructure modernization projects as well as projects to reduce harmful effects of drought on rivers and inland water bodies like the Salton Sea."

She added, "This is just one step to help fight this dangerous drought, but it's an important one."

Feinstein spokesman Tom Mentzer said while farmers across the West and the state could benefit, the Imperial Irrigation District, which holds by far the state's largest rights to

Colorado River water, and its farmer customers "would be eligible for significant funding from the \$4 billion drought provision.

Growers there would receive compensation for voluntarily reducing planting and irrigating some crops. Farmers in the Sacramento Valley, San Joaquin Valley and the Klamath could also receive assistance for fallowing a portion of their land. That could help California farmers planning for drought or compliance with the state's Sustainable Groundwater Management Act, complementing a similar state program in the San Joaquin Valley.

A key IID official also said the funds and the recognition of the Colorado River crisis are welcome.

"The fact that Congress recognizes the ongoing Colorado River drought is a big deal, and the funding will go a long way to address what's a national issue," said JB Hamby, an IID board member who also serves on California's Colorado River Board. "It gives Reclamation, the basin states and water users the resources to tackle this big problem head on."

Funds are also included for urban and agricultural water efficiency projects, including replacing thirsty lawns with drought resilient landscaping, and rural measures like canal lining and leveling of drainage ditches.

Other funding is earmarked for restoration projects that help remediate effects of wind-blown dust, which along the fast-drying Salton Sea contributes to sharply higher asthma rates and other health concerns. The less water that is piped to Imperial Valley farms and runs off into the inland water body, the more the lakebed is exposed. Chinook salmon, an endangered species that has been severely imperiled by recent droughts could also see habitat restoration funds.

Salton Sea Authority Pres. Louis Plancarte applauded the news. "Our disadvantaged and tribal communities have paid with their lives and livelihoods for past state-imposed water cuts to our region. He added, "There is simply no doubt that, without assured federal mitigation funding, the much more sizable federal cuts now under active consideration

will decimate public health in our region. I commend our Congressional delegation for their strong leadership in moving this essential legislation forward.”

California Governor Gavin Newsom also praised the deal: “This funding is critical to stabilize the Colorado River system and accelerate projects at the Salton Sea to protect public health and the environment. Thanks to our California senators for working with us on this priority and helping to lead the charge on this essential investment.”

If the huge climate and healthcare package passes the House and is signed by President Joe Biden, who strongly supports it, many details would need to be worked out about how the drought funds would be distributed and in what amount.

## How much will go to farmers?

Farmers in the Yuma, Arizona, area have sought \$1,500 per acre-foot of water conserved, while the Imperial Valley Farm Bureau requested \$2,300 per acre-foot. Water agency officials have said the amount per acre-foot would likely be lower.

But the funding is exactly the sort of massive boost that IID, regional farm bureaus and other organizations say is critical to both keep Lake Mead and Lake Powell afloat, and to compensate growers who could suffer serious economic impacts if they were forced to stop planting, processing and shipping major crops across the Southwest.

IID alone holds by far the largest and among the oldest water rights in California. Hamby said he tracked the progress of the drought funding all day Friday on media outlets and with district lobbyists, after Politico first reported that Sinema had made it a condition of her vote for the package.

"First it was \$5 billion, then Manchin supposedly cut it to \$1 billion, then it popped back up to \$4 billion," he said.

In a letter to its directors and advisors, Family Farm Bureau Executive Director Dan Keppen, who pushed hard for drought relief funds across the West, wrote: "Well, the

sausage making is wrapped up, and an agreement has been reached on Western Drought provisions that will be proposed for inclusion in the Democrats' 'Inflation Reduction Act.' "

He said the final language was "a far cry from what we were advocating for," which had included \$5 billion and block grant assistance for community impacts, as well as "West-wide" assistance, but said their coalition had done "a hell of a job."

He added: "Finding ways to best influence the best ways that Reclamation can implement these dollars will be a key priority for the next four years."

*Janet Wilson is senior environment reporter for The Desert Sun, and co-authors USA Today's Climate Point newsletter. She can be reached at [jwilson@gannett.com](mailto:jwilson@gannett.com) or @janetwilson66 on Twitter*



## **TORRES MARTINEZ DESERT CAHUILLA INDIANS**

66725 Martinez Road

Thermal, CA 92274

(760) 397-0300 Office

August 4, 2022

The Honorable Deb Haaland  
Secretary  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Secretary Haaland:

I am writing to request that you include the Torres Martinez Desert Cahuilla Indians (Tribe) in the current high-level negotiations led by Department of the Interior (Interior) officials with Colorado River Basin state officials, agriculture districts and urban water providers regarding Interior's recent demand for cuts to Colorado River water use. The Tribe's inclusion in this process is critical to ensuring that Interior and our Tribe may evaluate and assure the full mitigation of the impacts to our Tribe of such cuts prior to any federal, state or regional water conservation agreement, as required of Interior pursuant to its trust responsibility.

As you know, Interior owns roughly 40% of the lands in and surrounding the Salton Sea. The Tribe's reservation encompasses 24,024 acres in the Salton basin, roughly half of which is submerged by the Sea. Prior out-of-basin water transfers to benefit the federal interest in Colorado River Basin water security has greatly diminished inflows to the Salton Sea, exposing toxic Salton Sea lakebed, causing significant respiratory illness among tribal members, and harming reservation environmental resources.

In a November 2021 secretarial order, you pledged to manage "federal lands and waters in a manner that seeks to protect the treaty, religious, subsidence, and cultural interests of federally recognized Indian Tribes." In that order, you further committed to "engage affected Indian Tribes in meaningful consultation at the earliest phases of planning and decision-making relating to the management of federal lands to ensure that the Tribes can shape the direction of management. This will include agencies giving due consideration to Tribal recommendations on public land management."

As you know, high-level Interior officials are negotiating significant cuts to Colorado River water use in weekly meetings that include Colorado River Basin state officials, agricultural districts and urban water providers. Your Commissioner of Reclamation has recently testified to Congress her expectation that



these cuts will be agreed to by mid-August, and that if such an agreement is not accomplished, Interior may take unilateral action to cut water supplies, including those which sustain our reservation.

To date and inconsistent with the commitments in your recent secretarial order, however, our Tribe has not been a party to these high-level negotiations.

Our Tribe's inclusion in these negotiations is critical to ensuring that the impacts of the proposed federal cuts on the Salton Sea and our reservation are evaluated, avoided and mitigated. Interior officials were recently asked at a Salton Sea Authority board meeting and at a follow up meeting whether Interior had evaluated the impacts of these proposed federal cuts on the Salton Sea, on its own federal land management at the Salton Sea, and on the public health and environmental resources of our Tribe. Interior officials responded that Interior had not done so.


We know from prior Interior estimates that the mitigation costs of the new proposed federal cuts are likely to be significant. In its FY2021 budget, Interior estimated the low-end cost of mitigating the impact of the *current* deteriorating Salton Sea conditions on federal Salton Sea lands at \$332 million with an annual \$4.5 million cost for operations and maintenance. The new proposed cuts to California Colorado River water use are sure to significantly increase these costs, but have not yet been evaluated nor budgeted by Interior. Absent such evaluation and federally-funded environmental mitigation — both for current conditions on federal Salton Sea lands and impacts associated with proposed new cuts — Interior is failing to abide its trust duty to protect our Tribe's interests at the Salton Sea.

It is important to note that with respect to mitigation, the obligation for the assessment, funding and implementation of mitigation of current conditions and proposed new water cuts on our Tribe rests with Interior. Interior officials have recently suggested that Interior's obligations may be met by the Tribe applying for relatively small federal competitive grants to implement projects to mitigate the impact of this proposed federal action. This approach would unjustly place Interior's obligation for funding and implementing Salton Sea mitigation on the Tribe.

I sincerely appreciate the urgent issues facing you as you seek to protect federal interests in the Colorado River Basin system. I look forward to working with you to ensure that Interior's consideration of federal interests encompasses those of the Torres Martinez Desert Cahuilla Indians by including our Tribe as a full party to these critical Interior high-level Colorado River Basin negotiations.

If you have any questions or need additional information, please contact me at 760-397-0300.

Respectfully,

A handwritten signature in blue ink, appearing to read "Thomas Torte, Jr.", with a stylized flourish at the end.

Thomas Torte, Jr.  
Tribal Council Chairman

Cc: Senator Melissa Melendez  
Senator Richard Pan  
Assemblymember Devon Mathis  
Assemblymember Jim Patterson  
Assemblymember James C. Ramos  
Assemblymember Blanca Rubio  
Assemblymember Jim Wood



August 9, 2022

The Honorable Wade Crowfoot  
Secretary  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, California 95814

Dear Secretary Crowfoot:

We understand that you are negotiating with high-level Department of the Interior (Interior) officials concerning the federal request for 2-4 million acre feet (MAF) of cuts to Colorado River water supplies. We are writing to urge you to ensure that the impacts of any such cuts to the Salton Sea and surrounding disadvantaged and tribal communities are fully evaluated, are equitably applied across the Colorado River Basin (CRB), are carefully designed to avoid impacts to the Salton Sea, and are fully mitigated by an assured federal mitigation fund.

The Salton Sea Authority's (Authority) board is comprised of locally-elected officials from Imperial and Riverside counties, the Torres Martinez Desert Cahuilla Indians and key agricultural water districts. As the representatives of the local communities that would be most significantly impacted by any Colorado River federal, state or regional water conservation agreement, we further respectfully ask that you consult with us before making any commitments on behalf of California to such an agreement.

The current federal demand for Colorado River water cuts is significantly different from those in the early 2000s which set the Salton Sea crisis in motion and calls for a significantly different policy response. The Quantification Settlement Agreement (QSA) of 2003 water transfer initiated the public health and environmental crisis at the Salton Sea. While California assumed the lion's share of responsibility to address those impacts, it has taken roughly 20 years for the State to fund and implement mitigation program to address QSA impacts — a program only recently beginning to hit its stride. The QSA was designed to bring California's Colorado River water use within its legal entitlement, and California appropriately bore the costs of that action.

By contrast, the current federal demand for cuts to California Colorado River water use — which we understand may be far larger than the QSA cuts and achieved over a significantly faster time frame — is designed to protect the national interest in the Colorado River system, as well as the interests of the six other Colorado River Basin

states. Further, as major landowner at the Salton Sea, the federal government bears significant responsibility for managing its own Salton Sea lands in compliance with federal environmental laws. Interior recently estimated its costs for such management under current conditions at \$332 million with significant annual operations and maintenance costs, but has yet to budget for these costs or provide a modified estimate of these costs based on the new cuts Interior seeks from our region. Finally, Interior has tribal trust responsibility to ensure that this federal action does not negatively affect the Torres Martinez Desert Cahuilla Indians.

Accordingly, we strongly believe that the federal government must bear the financial responsibility for addressing the impact of any new California Colorado River water cuts to the Salton Sea and surrounding communities by establishing an assured federal Salton Sea mitigation fund.

In this connection, Interior officials have suggested that federal responsibility to address the impact of proposed cuts could be met by placing the burden on our affected communities to apply for limited federal competitive grant funding to implement mitigation projects. The QSA experience demonstrates the complexity of funding and implementing mitigation at the Salton Sea. In no case should the burden of addressing the public health and environmental impacts of the new proposed federal cuts to be borne by the already distressed communities surrounding the Salton Sea, including by requiring these communities to petition the federal government for funding through under-resourced competitive grant processes. The responsibility to fund and implement mitigation rests with the federal government, not our community.

Finally, in view of recent statements by the Upper Colorado River Basin Commission (UCRC), we must emphasize in closing that any agreement to cut Colorado River water use must be equitable across the CRB. In particular, we call to your attention a recent letter to Interior from the UCRC, which represents Wyoming, Colorado, Utah and New Mexico, stating that burden of Interior's sought 2-4 MAF of water cuts should fall principally on lower CRB states. Given that California has the largest Colorado River entitlement, this statement is tantamount to declaring that majority of the cuts called for by Interior should come from our region.

If California assumes disproportionate cuts to its Colorado River entitlement as urged by the UCRC, that action would decimate the Salton Sea and the surrounding disadvantaged and tribal communities. Such an action would be in direct conflict with the Newsom and Biden administration's environmental justice commitments to protect our disadvantaged and tribal communities from bearing the brunt of public health and environmental harms from state and federal policies.

The Honorable Wade Crowfoot, Secretary  
California Natural Resources Agency  
August 9, 2022  
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Thank you for your work to ensure that the new proposed federal cuts to California's Colorado River water use are equitable across the Colorado River Basin, and do not undermine the recent progress we have made together to address the public health and environmental crisis at the Salton Sea.

Sincerely,

A handwritten signature in blue ink that reads "Luis A. Plancarte". The signature is fluid and cursive, with the first name "Luis" and last name "Plancarte" clearly legible.

Luis A. Plancarte  
President

A handwritten signature in blue ink that reads "Altrena Santillanes". The signature is fluid and cursive, with the first name "Altrena" and last name "Santillanes" clearly legible.

Altrena Santillanes  
Vice President