

TESTIMONY OF DR. DAMON CLARKE,
CHAIRMAN, HUALAPAI TRIBE
BEFORE THE SUBCOMMITTEE ON WATER, OCEANS AND WILDLIFE
OF THE HOUSE COMMITTEE ON NATURAL RESOURCES
IN SUPPORT OF H.R. 2459
THE HUALAPAI TRIBE WATER RIGHTS SETTLEMENT ACT OF 2019

JUNE 26, 2019

Chairman Huffman and members of the Subcommittee, my name is Dr. Damon Clarke, Chairman of the Hualapai Tribe.

The Hualapai Tribe strongly supports H.R. 2459, the Hualapai Tribe Water Rights Settlement Act of 2019. Before I describe the major elements of this legislation and the critical benefits the Tribe receives from it, let me briefly inform the Subcommittee of our Tribe's pressing water needs.

1. The Tribe's critical need for additional water.

The Hualapai Reservation encompasses approximately one million acres in northwestern Arizona. All lands on the Reservation are tribal trust lands; there are no allotments or fee inholdings. The Colorado River forms the 108-mile northern boundary of the Reservation through a portion of the Grand Canyon.

Our Reservation has no significant surface streams other than the Colorado River. It has very limited groundwater resources. The Tribe's groundwater wells are a depletable resource and well levels on the Reservation have been dropping for years. The Tribe's principal residential community at Peach Springs relies exclusively on three groundwater wells in the Truxton Aquifer, near the Reservation's southern boundary. Those wells were installed in 1975,

so the piping for the well system is 44 years old and has failed in the recent past, leaving our community without water for several days. One of the wells has also suffered episodes of dangerous E-coli and coliform contamination and we have not been able to locate the source of the contamination. When that well is out of service because of contamination, we are unable to supply sufficient water to the community, so we have to implement strict mandatory conservation measures. Because this groundwater is the only source of water for our residential needs on the Reservation, we are very vulnerable to any short-term interruptions in supply from these wells, and also to the long-term decline in the water levels in the Truxton Aquifer.

In December 2016, the USGS published the results of a study it conducted of the water-in-storage in the Truxton Aquifer. But when our experts reviewed the agency's conclusions, they found the study deeply flawed. We promptly provided detailed comments to the USGS and the agency issued a revised report in December 2017. But the revised report still grossly overestimates the size of the Aquifer and therefore significantly overestimates the available groundwater. After reviewing the revised report, our experts concluded that the amount of groundwater in the Truxton Aquifer:

. . . . translates to approximately 30 to 40 years of the Tribe's long-term demand, assuming full extraction of recoverable water in storage. Accounting for recharge on the order of a few hundred acre-feet per year as estimated by the USGS adds a few more years to the estimate. This does not represent a permanent water supply solution.

In addition, the Truxton Aquifer extends off the Reservation and is vulnerable to depletion from off-Reservation pumping that is out of the Tribe's control. This groundwater is not a secure long-term water supply that the Tribe can rely on for the future of our Reservation population.

The situation is even worse elsewhere on the Reservation. There is a small well on the east side of the Reservation that provides water to ranchers and wildlife in that area, but the

water is not potable for human consumption. And there are two wells at West Water, which is on Buck-and-Doe Road, a dirt road that runs from Peach Springs to our tourist development at Grand Canyon West on the western rim of the Grand Canyon. The West Water wells, which are 35 miles from Grand Canyon West, have provided all of the water for our activities there. But last year, we experienced a crisis when the water table in these wells suddenly dropped because of the drought, and the wells both failed.

For the past year, the Tribe has been forced by lack of water to curtail some of our operations at Grand Canyon West, thus threatening the heart of our on-Reservation economy and the main source of employment for our members. We have attempted to locate other sources of water that we can use to supply Grand Canyon West. Although we did find some off-Reservation sources, Arizona law prohibits us from transporting this water across basins. As an emergency measure, we have resorted to pumping water from the Truxton Aquifer and hauling it by truck on Buck-and-Doe Road to the West Water site, where it is then pumped out to Grand Canyon West. This patchwork system is insecure and expensive, but it is the only way we can continue our remaining operations at Grand Canyon West. And this emergency has made the Tribe even more dependent on the Truxton Aquifer. It also has placed additional stress on that Aquifer because we are now forced to use it to supply both Peach Springs and, more distantly, Grand Canyon West. Let me quote our Director of Public Works about the current situation:

This places an even greater demand on the public water system serving the community of Peach Springs. Leaving the Tribe praying that the trucks don't break down, the pumps don't fail, the pipeline stays together and there are no more E-coli events.

The drastic shortage of water at Hualapai also imposes another substantial burden on our members. Grand Canyon West is located a two-hour drive on a dirt road from Peach Springs, where virtually all tribal members live. Thus, tribal members who are employed at Grand

Canyon West have round-trip commutes of four hours a day to their jobs, and even longer in inclement weather. Currently, it is impossible to locate a residential community at Grand Canyon West because of the lack of water there. This situation imposes an unsustainable burden on tribal members who live in Peach Springs and work at Grand Canyon West, and on their families. The Tribe urgently needs Colorado River water delivered to the Reservation in order to allow the Tribe to develop a residential community at Grand Canyon West so the tribal members who are employed there can reside closer to their jobs.

The Colorado River is the only feasible water supply for satisfying the long-term future needs of our population living in Peach Springs and on the rest of our Reservation. Our Tribe needs delivery of Colorado River water both to provide a permanent and secure water supply for the domestic and residential needs of our present and future population, and also to fully realize the opportunities for economic development that we have at Grand Canyon West.

2. History of Settlement Negotiations.

Over a six-year period ending in 2016, the Hualapai Tribe, in two phases, negotiated a settlement of all of the Tribe's federally reserved water rights with the State of Arizona and major private entities in Arizona. The United States actively participated in these settlement negotiations through a Federal Negotiating Team consisting of representatives from affected Interior Department agencies and from the Department of Justice. In Phase 1, the parties successfully resolved a portion of the Tribe's water rights—those in the Bill Williams River watershed, where the Tribe has a small parcel of Reservation land and tribal members have some allotted trust land—in a settlement that was ratified by the Bill Williams River Water Rights Settlement Act of 2014, Pub. L. 113-223, 128 Stat. 2096 (Dec. 16, 2014).

In 2016, the Tribe and the State parties reached final agreement on Phase 2. The legislation now before the Committee, H.R. 2459, will resolve all of the Tribe's remaining water rights claims on a comprehensive basis. The legislation is strongly supported by the Tribe, the State of Arizona and by the private entities which are parties to the settlement—the Salt River Project, the Central Arizona Water Conservation District and Freeport Minerals Corporation—all of which have signed the settlement agreement. It is also strongly supported by Mohave County, the local jurisdiction in which most of the Reservation is located.

3. Elements of the Settlement.

Let me now summarize the principal elements of the comprehensive water rights settlement ratified by H.R. 2459:

- The Act comprehensively settles all of the Hualapai Tribe's federally reserved water right claims for its Reservation and trust lands.
- The Settlement Act recognizes the Tribe's exclusive rights to all groundwater and surface water on the Reservation and its other trust lands, and the Tribe agrees not to object to any pumping of groundwater or diversions of surface water outside the Reservation or its trust lands.
- The Tribe receives an allocation of 4,000 acre-feet a year of Central Arizona Project (CAP) water from the Colorado River. Of this amount, 1,115 acre-feet a year will be "firmed" (half by the United States and half by the State) until 2108 to protect against future shortages in the availability of Colorado River water in Arizona. The Act also provides that the Tribe itself can "firm" additional portions of the Central Arizona Project water allocated to the Tribe in any year the water is available and is not needed for delivery to the Reservation.

- The legislation authorizes the expenditure of \$134.5 million in federal funds (in 2016 dollars) to construct an infrastructure project to deliver up to 3,414 acre-feet a year from the Colorado River to the Reservation. The project will divert water from the Colorado River on the Reservation at Diamond Creek and then deliver it through a 70-mile pipeline to both Peach Springs and Grand Canyon West. This system will replace the Tribe's reliance on the existing groundwater wells (except when those wells are needed as an emergency backup). The legislation also authorizes an OM&R Trust Fund of \$32 million for the Tribe partially to defray future costs of operating, maintaining and replacing the project works, \$5 million for OM&R costs prior to transfer of the project to the Tribe, and \$2 million for training of Tribal members in operating and managing the project.

- Certain lands owned by the Hualapai Tribe near the Reservation are designated by the legislation to be brought into trust status, and certain other lands currently held in trust for the Tribe will be made part of the Hualapai Reservation.

4. Conclusion.

Passage of this legislation is absolutely essential if our Tribe is to attain a secure future on our Reservation, to accommodate future growth of our population and to realize the full economic potential of our Reservation. We have done everything possible to provide jobs and income to our people in order to lift them out of poverty—but the lack of a secure and replenishable water supply on our Reservation is our major obstacle that prevents us from achieving economic self-sufficiency, a goal that Federal Indian policy has long favored. Passage of this legislation is essential to allow my Tribe to attain this goal.

Thank you for the opportunity to testify before you today. I will be pleased to answer any questions you may have, and our Tribe will help in any way it can to secure enactment of this critical legislation.