

**STATEMENT FOR THE RECORD
FROM THE
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE HOUSE NATURAL RESOURCES
SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE
ON
H.R. 7633, HUALAPAI TRIBE WATER RIGHTS SETTLEMENT ACT OF 2022**

MAY 12, 2022

Thank you for the opportunity to provide the Department of the Interior (Department)'s position on H.R. 7633, the Hualapai Tribe Water Rights Settlement Act of 2022, which would approve and provide authorizations to carry out the settlement of certain water rights claims of the Hualapai Tribe in Arizona (Tribe). The Department supports H.R. 7633.

I. Introduction

The Biden Administration recognizes that water is a sacred and valuable resource for Tribal Nations and that long-standing water crises continue to undermine public health and economic development in Indian Country. This Administration strongly supports the resolution of Indian water rights claims through negotiated settlements. Indian water settlements help ensure that Tribal Nations have safe, reliable water supplies; improve environmental and health concerns on reservations; enable economic growth; promote Tribal sovereignty and self-sufficiency; and help fulfill the United States' trust responsibility to Tribes. At the same time, water rights settlements have the potential to end decades of controversy and contention among Tribal Nations and neighboring communities and promote cooperation in the management of water resources. Congress plays an important role in approving Indian water rights settlements and we stand ready to work with this Subcommittee and Members of Congress to advance Indian water rights settlements.

Indian water rights settlements play a pivotal role in this Administration's commitment to putting equity at the center of everything we do to improve the lives of everyday people—including Tribal Nations. We have a clear charge from President Biden and Secretary Haaland to improve water access and water quality on Tribal lands. Access to water is fundamental to human existence, economic development, and the future of communities—especially Tribal communities. To that end, the Biden Administration's policy on negotiated Indian water settlements continues to be based on the following principles: the United States will participate in settlements consistent with its legal and moral trust responsibilities to Tribal Nations; Tribes should receive equivalent benefits for rights which they, and the United States as trustee, may release as part of the settlement; Tribes should realize value from confirmed water rights resulting from a settlement; and settlements should contain appropriate cost-sharing proportionate to the benefits received by all parties benefiting from the settlement. In addition, settlements should provide finality and certainty to all parties involved.

II. Historical Context

A. The Hualapai Reservation and the Hualapai Tribe

The Hualapai Tribe's aboriginal homeland is located in the Grand Canyon and plateau region to the south of the Grand Canyon. The Tribe's main Reservation was established on January 4, 1883, by Executive Order, and is comprised of approximately 992,462 acres of tribal trust lands in northwestern Arizona. The tribal headquarters is Peach Springs, Arizona, near the southern boundary of the Reservation. The northern boundary of the main Reservation is 108 miles along the Colorado River in the Grand Canyon. There is also a 60-acre Executive Order Reservation located in the Big Sandy River Basin, approximately 40 miles south of the main Reservation.

The primary sources of employment on the Reservation are recreation, tourism, and tribal and federal government services. The Grand Canyon is the primary source of tourism on the Reservation, with activities at the Tribe's tourism center, Grand Canyon West, and river rafting in the Colorado River. The Tribe also owns and operates the Hualapai Lodge, located in Peach Springs.

In 2007, the Tribe completed Grand Canyon West, which includes the Skywalk, a horseshoe-shaped glass-bottom walkway that extends out from the rim of the Grand Canyon. Pre-pandemic, annual visitation at Grand Canyon West exceeded one million visitors, making it the primary economic driver on the Reservation.

B. Water Resources of the Hualapai Reservation

The main Reservation is located primarily in the Colorado River Basin with a small portion in the Upper Verde River Basin. Most on-Reservation streams are ephemeral. Several springs discharging from the regional aquifer at the bottom of canyons can provide baseflow for short perennial reaches, which ultimately discharge to the Colorado River. The largest of these perennial streams are Diamond Creek and Spencer Creek, with mean annual flows of over 3,700 acre-feet per year (afy) and 4,600 afy, respectively. The springs that feed these streams are located in remote portions of deep canyons and are not readily accessible for use by the Tribe. Smaller springs on the plateaus provide water for livestock purposes.

Groundwater is the primary water supply on the Reservation and is available in varying degrees of magnitude, depending on the type and location of water-bearing zones. The major water use on the Reservation occurs in two locations: the town of Peach Springs and Grand Canyon West. Three wells serve the Peach Springs public water supply system and are located approximately 6.5 miles southwest of the town. These wells produce water from the Truxton Aquifer, an aquifer in the Truxton Valley that extends off the Reservation.

For over a decade, Grand Canyon West relied entirely on groundwater pumped and then transported by way of an approximately 35-mile-long pipeline. In 2019, the groundwater well supplying Grand Canyon West went dry. To keep this cornerstone of the Tribe's tourist economy operational, the Tribe has had to haul water approximately 30-miles from a well near Peach Springs to the now-dry well site. The hauled groundwater is then piped to Grand Canyon West. For it to thrive as the Tribe has envisioned, Grand Canyon West needs improved access to water.

III. Proposed Hualapai Tribe Settlement Legislation

The Tribe claims water rights in the Colorado, Verde, and Bill Williams River basins. Negotiations regarding potential settlement of the Tribe's water rights claims have been ongoing since 2011, when the United States established a team to negotiate a comprehensive settlement of all the Tribe's water rights within Arizona. The settlement was divided into two phases; the first phase addressed reserved water rights to several off-reservation tracts in the Bill Williams River Basin and resulted in the Bill Williams River Water Rights Settlement Act of 2014, P.L. 113-223. The second phase, addressed in H.R. 7633, covers additional water rights in the Bill Williams River Basin, as well as the remainder of the Tribe's water rights in the Colorado River Basin and the Verde River Basin.

H.R. 7633 would resolve the Tribe's remaining water rights claims in Arizona; ratify and confirm the Hualapai Tribe water rights settlement agreement among the Hualapai Tribe, the United States, the State of Arizona, and others; and authorize funds to implement the settlement agreement. The bill would reallocate 4,000 acre-feet of fourth-priority Central Arizona Project (CAP) non-Indian agriculture priority water to the Tribe to be used for any purpose on or off the Reservation within the lower Colorado River basin in Arizona. H.R. 7633 establishes a Trust Fund of \$180 million, to be indexed, that the Tribe can use to develop water infrastructure on its Reservation as it determines necessary and on its own timeframe. H.R. 7633 also authorizes a \$5,000,000 fund for the Secretary of the Interior for settlement implementation, including for ongoing groundwater monitoring and modeling.

As discussed below, H.R. 7633 is the product of negotiations among the Tribe, the United States, the State of Arizona, and other interested parties, to resolve Departmental concerns expressed in prior testimony.

IV. Department of the Interior Position on H.R. 7633

The Department is pleased to support H.R. 7633. This bill is the result of over a decade of dedicated, good-faith negotiations to reach consensus on key issues. The Department appreciates that each settlement is unique, and its terms must be tailored to meet the needs of the settling Tribe and other parties.

H.R. 7633 is drafted to meet the Tribe's current and long-term needs for water by providing a Trust Fund to be used by the Tribe according to its needs and determinations. Rather than committing the Tribe or the United States to construct specific water infrastructure projects, H.R. 7633 allows the Tribe to make decisions regarding how, when, and where to develop water infrastructure on its Reservation. This approach to settlement is consistent with tribal sovereignty and self-determination.

Previously introduced bills to approve the settlement included provisions prohibiting the Tribe and the United States from objecting to any use of groundwater outside the boundaries of the Reservation, even if those uses interfere with acknowledged Federal reserved groundwater rights. The Department testified repeatedly against such restrictions. Recent negotiations,

however, produced compromise language tailored to the unique facts and hydrogeology on and around the Reservation. The Department believes that H.R. 7633, as introduced, would protect the groundwater resources available on the Reservation while providing certainty to surrounding communities that also rely on the Truxton Aquifer for their development. However, we caution that the compromises reached in this settlement are not a “one size fits all” and should not be considered a precedent for other settlements.

As a final matter, the Department notes that H.R. 7633 contains restrictions on taking lands into trust in Arizona. The State of Arizona takes the position, as a matter of policy, that Indian water rights settlements must include the restriction that, as of the date of enactment, the settling Tribe may have additional lands taken into trust only if specifically authorized by Congress. This restriction is a significant limitation on the authority of the United States under existing Federal law and is contrary to this Administration’s strong support for returning ancestral lands to Tribes. The Department does not seek to contradict the Tribe’s decision that the benefits provided by H.R. 7633, including the addition of certain lands to the Reservation as part of the settlement, justify this compromise. The Department supports the Tribe’s exercise of its sovereignty while strongly disfavoring restrictions on the taking of lands into trust.

V. Conclusion

The Department appreciates the dedication of all parties, including the Tribe and the State of Arizona, to these prolonged negotiations and the willingness of all the parties to reach consensus on contentious issues. The Department is pleased to support H.R. 7633 and looks forward to working with the Committee to ensure there are no unintended adverse impacts to Grand Canyon National Park.