

Statement of

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**Hearing before the House Natural Resources Committee
Subcommittee on Water, Wildlife and Fisheries**

Concerning

H.R. 8940—The Northeastern Arizona Indian Water Rights Settlement Act of 2024

July 23, 2024

Washington, D.C.

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee,

Thank you for the opportunity to submit testimony in support of H.R. 8940, the Northeastern Arizona Indian Water Rights Settlement Act of 2024. My name is Leslie A. Meyers. I am the Associate General Manager and Chief Water Resources and Services Executive at Salt River Project (“SRP”), a large multi-purpose federal reclamation project serving the water and power needs of the Phoenix, Arizona metropolitan area. The Northeastern Arizona Indian Water Rights Settlement Agreement (“Settlement Agreement”) is a monumental achievement and the product of negotiations spanning over 30 years. The settlement provides the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe with desperately needed water supplies and infrastructure to secure their future. The settlement also brings certainty to water users throughout northeastern Arizona and those along the Colorado River regarding the allocation of a scarce resource.

About Salt River Project

Congress and the Secretary of the Interior (“Secretary”) authorized the construction of the Salt River Federal Reclamation Project as one of the first projects under the Reclamation Act of 1902. The Salt River Valley Water Users’ Association, an Arizona Territorial

corporation, was organized in 1903 by landowners in the Salt River Valley to contract with the federal government for the construction of Theodore Roosevelt Dam on the Salt River, located some 80 miles northeast of Phoenix. In exchange for pledging their land as collateral for the federal loans to construct Roosevelt Dam, which loans have long since been fully repaid, landowners in the Salt River Valley received the right to water stored behind the dam.

Today, SRP operates six dams and reservoirs on the Salt and Verde Rivers in the Gila River Basin, one dam and reservoir on East Clear Creek in the Little Colorado River Basin, and 1,300 miles of canals, laterals, ditches and pipelines to deliver water to approximately 400 square miles of land in the greater Phoenix area. The dam and reservoir system can store approximately 2.3 million acre-feet of water runoff from the Salt and Verde River and East Clear creek systems, making SRP the largest raw water provider in the Phoenix Metropolitan area.

C.C. Cragin Dam and Reservoir (“C.C. Cragin Reservoir”), located on East Clear Creek in the Little Colorado River Basin, is an important feature of the Salt River Federal Reclamation Project. Located approximately 25 miles north of the Town of Payson, C.C. Cragin Reservoir stores water from a 71-square-mile watershed on East Clear Creek, a tributary to the Little Colorado River. SRP acquired C.C. Cragin Reservoir in 2004 from Phelps Dodge Corporation as part of the Gila River Indian Community Water Rights Settlement. Title II of the Arizona Water Settlement Act, P.L. 108-451, specifies that up to 3,500 acre-feet of the water stored in Cragin Reservoir will be made available for municipal and domestic uses in northern Gila County at no cost to SRP or the Bureau of Reclamation. Water from C.C. Cragin Reservoir is a crucial resource to meet the municipal demands of the Town of Payson and other nearby communities, who previously relied solely upon the area’s meager groundwater resources.

In addition to water operations, SRP is also the third largest not-for-profit community based public power utility in the country, providing reliable, affordable, and sustainable electricity to nearly 3 million people in Arizona. SRP has a diverse energy portfolio that includes nuclear, solar and wind, natural gas, battery storage, coal, geothermal and hydropower. From 1969 until 2019, SRP was a part owner and the operating agent of the Navajo Generating Station (“NGS”), a coal fired power plant located on the Navajo Reservation in the Upper Colorado River basin. Coal used for fuel at NGS was supplied by the Kayenta Mine, located on land within both the Navajo and Hopi Reservations. Members of the Navajo Nation and the Hopi Tribe were employed at both NGS and Kayenta Mine. Over its 50-year history, water for the operation of NGS was supplied from Arizona’s annual entitlement to Upper Basin Colorado River water. SRP also owns and

operates the Coronado Generating Station located near St. Johns, Arizona and owns Unit 4 at the Springerville Generating Station located near Springerville, Arizona. Both of those power plants are located in the Little Colorado River basin and rely on local groundwater resources for operations.

The Water Needs of The Three Tribes

The Navajo Nation is the largest Native American tribe in the country, with a membership of more than 400,000 tribal members. The Navajo Reservation spans 17.3 million acres in the states of Arizona, Utah, and New Mexico. About half of the Navajo Nation tribal members reside on the reservation. The Little Colorado River in Arizona, a tributary to the Colorado River, traverses the Arizona portion of the Navajo Reservation. The Navajo (“N”) Aquifer and the deeper Coconino (“C”) aquifer underlie the reservation. The lack of dedicated water supplies and water infrastructure are urgent problems in the daily lives of the Navajo. Approximately 30 percent of Navajo households lack running water and must rely on hauling water to meet their daily needs.

The Hopi Tribe’s ancestral territory encompassed the entire Little Colorado River watershed from its confluence with the Rio Puerco River west to its confluence with the Colorado River in Arizona for many centuries. The present-day Hopi Reservation covers approximately 3,000 square miles in the eastern part of Coconino County and the northern part of Navajo County in northeastern Arizona. The Hopi Reservation is bordered on all sides by the Navajo Reservation. Current tribal enrollment is close to 15,000 members, with approximately 9,000 living on the reservation. Surface water on the Hopi Reservation is present in seeps, springs, wetlands, and washes. These washes are tributaries to the Little Colorado River and are primarily ephemeral with limited perennial reaches supplied by springs. Groundwater is essential to ensure that the Hopi Reservation serves as a permanent and sustainable homeland for the Hopi. Groundwater project infrastructure and access to perennial surface water supplies are pressing needs for the Hopi Tribe.

The San Juan Southern Paiute Tribe is a small tribe located in Northern Arizona and Southern Utah, within the exterior boundaries of the Navajo Reservation. The portion of Tribe’s community located within Arizona is in the Little Colorado River Basin. The San Juan Southern Paiute Tribe is an ancient tribe but did not receive federal recognition until 1989. In the context of litigation to determine the rights of the Tribe to lands within the Navajo Reservation, the parties negotiated a treaty to partition the land between the two tribes. The Navajo Nation agreed to partition 5,400 acres as the San Juan Southern Paiute Tribe’s exclusive reservation. However, Congress has not yet ratified the

treaty. Further, the San Juan Southern Paiute Tribe lacks a dedicated source of water and the water delivery system needed to serve the Tribe's members.

H.R. 8940 is Transformative for the Future of the Three Tribes and for Northeastern Arizona Communities

SRP has long held that the resolution of tribal water rights claims broadly benefits both the tribal communities receiving water and funding, and water users throughout the basin. This is particularly true in the context of the Settlement Agreement.

By providing water access and funding for water infrastructure to the tribes, the Settlement Agreement and authorizing legislation will support tribal economic growth, self-sufficiency, and sovereignty. Resolving the water claims of the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe also addresses a major outstanding item in Arizona's Little Colorado River Adjudication—a proceeding that has been ongoing for nearly half a century. The settlement will result in the entry of a judgment and decree adjudicating the three tribes' claims to the Little Colorado River system and will place restrictions on the tribes' participation in the litigation going forward.

Finally, of particular importance to SRP, the settlement confirms SRP's right to store water in C.C. Cragin Reservoir on East Clear Creek and deliver that water to communities in Gila County, Arizona, and potentially the Yavapai-Apache Nation and neighboring municipalities in Yavapai County, Arizona.

Noteworthy Benefits of the Settlement and H.R. 8940

Securing and Delivering Colorado River Water Supplies

The settlement is particularly timely in the context of ongoing negotiations of post-2026 Colorado River operating guidelines, as the Navajo Nation's claim to the Colorado River is among the largest outstanding claims in that basin. Since the closure of NGS in 2019, SRP has expressed its unwavering commitment to ensuring that the Navajo Nation and the Hopi Tribe receive Upper Basin Colorado River water supplies apportioned to the State of Arizona under Article III of the Upper Colorado River Basin Compact of 1948. The Agreement and H.R. 8940 would bring this about by providing nearly 57,000 acre-feet of Colorado River water to the Navajo Nation and the Hopi Tribe, including 47,000 acre-feet of Arizona's 50,000 acre-feet Upper Basin apportionment. These renewable supplies would be delivered through a pipeline funded by H.R. 8490 to the Navajo and

Hopi Reservations, providing potable drinking water to areas of the reservations currently without water or water infrastructure.

Additional Water Delivery Projects

H.R. 8940 also includes funding for at least ten other water delivery projects for tribal communities. The funding would make possible the construction of groundwater projects on the Navajo, Hopi, and San Juan Southern Paiute Reservations that are desperately needed to deliver water to currently unserved and underserved areas. These projects would address both infrastructure and water quality needs existing on the reservations. Construction of these projects, along with the Colorado River pipeline project described above, would make it possible for individual communities on all three reservations to thrive and grow.

San Juan Southern Paiute Reservation

H.R. 8940 ratifies and confirms the treaty between the Navajo Nation and the San Juan Southern Paiute Tribe and permanently sets aside the San Juan Southern Paiute Reservation. The creation of this reservation is long overdue and will remain in effect whether or not other components of the settlement are completed or made effective.

Agreement Between the Navajo Nation and the Hopi Tribe Regarding the Management and Use of the N-Aquifer, Springs, and Washes

The Settlement Agreement includes an agreement between the Navajo Nation and the Hopi Tribe regarding the management and use of the N-Aquifer, as well as springs and washes that occur on their reservations. This intertribal agreement also makes room for potential joint water projects that could benefit both tribes. The tribes' agreement on these issues was essential to reaching the overall settlement and is illustrative of their commitment to work together as they manage their water resources going forward.

Resolution of the Three Tribes' Claims to Little Colorado River Water and Groundwater

All three tribes have asserted claims in the Little Colorado River Adjudication. The Little Colorado River is a fully appropriated system, and the claims of the tribes, which are based in part on future use under the federal reserved rights doctrine, exceed the flow of the river even before existing uses of water are considered. Under the settlement, the tribes would receive surface water flows reaching their respective reservations, as well as underlying groundwater. At the same time, the Tribes would confirm and agree not to object to existing uses of surface water and groundwater, as well as some future uses (within certain parameters). These provisions bring clarity to neighboring water users

and avoids significant litigation costs, including for SRP's water uses at its power generating plants in the basin.

Confirmation of SRP's Right to Store and Deliver Water in C.C. Cragin Reservoir

Through the Settlement Agreement, the three tribes would confirm and agree not to challenge or object to SRP's right to store water in C.C. Cragin Reservoir on East Clear Creek and deliver that water to communities in Gila County, Arizona. The three tribes' confirmation of SRP's Cragin right also protects water deliveries from C.C. Cragin Reservoir to the Yavapai-Apache Nation, and potentially other communities in Yavapai County, Arizona, through the proposed Cragin-Verde Pipeline Project from any challenge. This project, which would be authorized by H.R. 8949, is the centerpiece of the water rights settlement for the Yavapai-Apache Nation. The agreement by the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe not to challenge or object to SRP's rights in C.C. Cragin Reservoir, which is located in the Little Colorado River watershed, paves the way for deliveries of Cragin water to Yavapai County.

Conclusion

The Northeastern Arizona Indian Water Rights Settlement Agreement is critical to augmenting the water resources and infrastructure that is so urgently needed by the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe. The settlement provides a foundation for the future of these tribes, making it possible for tribal members and their families to live, work and thrive on their reservations. The settlement also puts an end to longstanding litigation with the tribes' neighbors and achieves greater certainty regarding allocation of resources in the Colorado River Basin and the Little Colorado River Basin. SRP urges the passage of H.R. 8940 to authorize and fund the settlement.