

**TESTIMONY of  
BECKY DAGGETT, MAYOR  
CITY OF FLAGSTAFF**

**BEFORE THE  
UNITED STATES HOUSE COMMITTEE ON NATURAL RESOURCES**

**July 23, 2024**

**Concerning**

**H.R. 8940 “Northeastern Arizona Indian Water Rights Settlement Act of 2024”**

Chairman Westerman, Ranking Member Grijalva, Members of the Committee and distinguished guests, thank you for the opportunity to provide testimony supporting H.R. 8940, the Northeastern Arizona Indian Water Rights Settlement Act of 2024 (NAIW RSA) for the settlement of water rights claims of the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe, and for other purposes. The City of Flagstaff (“Flagstaff”) is honored and excited to support the H.R. 8940, especially given that the City is home to many Tribal members.

Flagstaff and various other parties are actively engaged in multiple court cases styled, *In Re: The General Adjudication of All Rights to Use Water in the Little Colorado River General Adjudication*, CV 6417 (“Adjudication”); and *In re: Hopi Reservation HSR*, Contested Case No. CV 6417-203; and *In re: Navajo Nation*, Contested Case No. CV 6417-300. Through H.R. 8940, this historic settlement agreement would resolve protracted and expensive litigation over the Tribes’ water rights claims among the Navajo Nation, the Hopi Tribe, the San Juan Southern Paiute Tribe, the United States acting as trustee for the Tribes, Flagstaff, Salt River Project, as well as other towns and communities and private parties in the Little Colorado River Adjudication. Likewise, H.R. 8940 would confirm certain surface water rights and groundwater rights for non-federal parties, including Flagstaff at Red Gap Ranch.

The Northeastern Arizona Indian Water Rights Settlement Agreement (the “Agreement”) dated as of May 9th, 2024, was unanimously approved by the Hopi Tribe on May 20, 2024, and the Navajo Nation and the San Juan Southern Paiute each unanimously approved the Agreement on May 23, 2024. Flagstaff determined it is in the best interests to enter into the Agreement to end protracted and costly litigation related to these water rights claims and unanimously approved the Agreement on July 2, 2024.

If approved by Congress, H.R. 8940 will provide funding for long-overdue water supply projects for the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute. Flagstaff knows all too well that access to potable water in the region is very costly because of distance, challenging geology and depth to water, and naturally occurring poor water quality. Federal funding for water supply projects is fundamental to ensuring the stability of our Tribal communities and the region. Hauling water is not a viable option for anyone, and inadequate infrastructure among our Tribal

Partners must change for the better. Flagstaff supports H.R. 8940 because it will not only end litigation, it will also ensure the success of the needed water supply projects identified by our Tribal Partners for their respective reservations.

When settlement negotiations first began in the mid-1990s, Flagstaff's population was less than 50,000. As the largest community in Northern Arizona, Flagstaff's population is approaching 80,000 residents and hosts more than six million visitors each year. Flagstaff provides core services to its citizens, and water is among them. Over the past 100 years, Flagstaff has actively engaged in providing reliable and sustainable water supplies to meet current and future demands. While growing, Flagstaff has reduced its water usage rate from 186 gallons per person to day to less than 90 gallons per person, per day. Flagstaff consistently receives awards for its laudable water management and reuse efforts, including EPA WaterSense awards, the Wyland Foundation National Mayor's Challenge for Water Conservation, and Gold status from the Alliance for Water Efficiency Utility Leadership Board.

Conservation and reuse of water, while commendable and necessary, cannot reasonably meet Flagstaff's core services of providing reliable and sustainable supplies for future demands. Every year Flagstaff continues to improve its water efficiency and continues to implement and explore water reuse alternatives. Through water reuse alone, Flagstaff was able to cut its potable water use by 20 percent. The City remains an advocate for expanding reuse opportunities through potable reuse alternatives as demonstrated through its Council-adopted policy on reuse, community engagement, and participation in state-wide initiatives. While the Arizona regulatory rules that prescribe how potable reuse options are being developed, water reuse for Flagstaff does not resolve the shortfall that will occur in the future. Water efficiency prolongs water sources but does not create new water on which Flagstaff can continue to rely on for future growth.

Additional water supplies are critically needed due to climate variables, wildfires, water resiliency and water security for the region. The extended drought and local wildfires have severely impacted Flagstaff's ability to rely on local surface water supplies to meet existing demands. Currently, 76 percent of Flagstaff's water supply is located outside Flagstaff's service area on heavily forested USFS lands that are at high risk to wildfires. In 2022 this became a reality for Flagstaff when a fire damaged a portion of Flagstaff's water supply, rendering it inaccessible until the waterline could be repaired.

Significantly, H.R. 8940 also recognizes Flagstaff's Regional Water Supply Project at Red Gap Ranch ("Regional Water Supply Project"), its existing wells and provides for points of access to the Regional Water Supply Project. Flagstaff purchased Red Gap Ranch in 2005 to secure a longer-term water future after drought triggered a city-wide water emergency the previous year. The Regional Water Supply Project would provide redundancy to the southwestern Navajo Nation and Flagstaff's water supplies, further mitigating the risk of drought, wildfire, and watershed degradation of Flagstaff's water resources. The versatility of the Regional Water Supply Project will bring opportunities along the I-40 corridor among lands within the Navajo Nation, and also

lands owned by the Hopi Tribe. The regional nature of the project would afford long-term water security for the greater Flagstaff area in the decades to come.

Flagstaff signed the Agreement with the understanding that Paragraph 9.0 of the Agreement establishes two Buffer Zones; of which the vast majority of Red Gap Ranch is located, and only one parcel of Red Gap Ranch fee land is located outside of these Buffer Zones. Paragraph 9.0 of the Agreement further provides for the right to use groundwater from Existing Wells in the two Buffer Zones. Existing wells located in Buffer Zone 1 and 2 as of the Effective Date will be catalogued by the Arizona Department of Water Resources based on the capacity of the well or well casing sizes provided in Table 1 of subparagraph 9.4.1. In Buffer Zone 1 on Red Gap Ranch the City owns eleven (11) Existing Wells with a total pumping capacity of 2,912 acre-feet per year and in Buffer Zone 2 Flagstaff owns sixteen (16) Existing Wells with the total pumping capacity of no less than 15,803 acre-feet per year and up to 19,003 acre-feet per year. Paragraph 9.0 of the Agreement also allows for the replacement of Existing Wells and for the drilling of New Wells, subject to certain requirements. There are no restrictions on withdrawals of groundwater from Existing Wells, or New Wells drilled outside the Buffer Zones. Importantly, key waivers were negotiated to limit future claims based on injury to water due to the movement of salinity and naturally-occurring contaminants in the aquifers from groundwater pumping. As part of Paragraph 9.0 of the Agreement, the Arizona State Land Department agrees to coordinate with Flagstaff regarding the drilling of wells on ASLD parcels in and around Red Gap Ranch for the benefit of the Regional Water Supply Project.

The Regional Water Supply Project is a critical component of Flagstaff's future water supply and necessary for the Flagstaff's water resiliency and water security needs. The Regional Water Supply Project is also an important component of the Agreement because Paragraph 12.0 allows the Navajo Nation to have access to the Regional Water Supply Project by entering into Water Supply Contracts with Flagstaff as described in the Agreement. Nothing in the Agreement prohibits Flagstaff from entering into Water Supply Contracts with the Hopi Tribe, ASLD, ADOT or others wanting access to the Regional Water Supply Project.

The 35-mile alignment of the Regional Water Supply Project from Red Gap Ranch will follow Interstate-40 within the ADOT Right-of-Way, and then continue along county and Forest Service roads to reach Flagstaff. The Regional Water Supply Project can deliver 16,000 acre-feet of water. Importantly, the Regional Water Supply Project can be accessed by the Navajo Nation, the Hopi Tribe, the Arizona State Land Department, and others at the ADOT interchanges along the I-40 corridor or at other mutually beneficial locations. Flagstaff is also exploring an integrated approach to the Regional Water Supply Project, including the installation of solar power generators to help achieve Flagstaff's carbon neutrality vision. Through H.R. 8940, the Navajo Nation and Hopi Tribe would have access to these critical water and energy sources.

Flagstaff acquired Red Gap Ranch, located approximately 35 miles east of the City, for the purpose of developing its future municipal water supply and to provide water resiliency and water security for its residents, with 71 percent voter approval. Flagstaff has invested millions in the Regional Water Supply Project to date and continues to invest in its development by conducting

engineering feasibility studies, design plans, hydrology studies, including the drilling of no less than 10 wells at Red Gap Ranch for municipal use that are also recognized as part of H.R. 8940. The Regional Water Supply Project will be critical to Flagstaff's future as there will likely be a reduction to snowpack and recharge to Flagstaff's wellfields and would provide for resiliency from catastrophic forest fires, and the security of a long-term water supply.

A Phase II Feasibility Study for the Regional Water Supply Project has been released and was discussed at Flagstaff's Water Commission meeting on July 18, 2024. Flagstaff continues to identify, in coordination with the Arizona Department of Transportation, and with further anticipated input from regional participants including the Navajo Nation, the Hopi Tribe and the Arizona State Land Department, various Points of Access to the Regional Water Supply Project at ADOT intersections along the Interstate 40 corridor, or at other mutually beneficial locations.

To further the development of the Regional Water Supply Project, Flagstaff is seeking funding on a cost-share basis. Although parties may express concern about adding funding to the legislation for the Regional Water Supply Project from Red Gap Ranch, it would be logical to include such funding in the Congressional approval based on the benefits that this *truly* Regional Water Supply Project brings.

The Red Gap Ranch Regional Water Supply Project is nearly shovel ready and can supply precious water to key parties in this settlement. Flagstaff's investment in the feasibility study and design based on the I-40 alignment has put the Regional Water Supply Project substantially advanced in the design of other projects. This is important because the Regional Water Supply Project from Red Gap Ranch will also provide for economic development opportunities for the Navajo Nation, the Hopi Tribe and the State of Arizona (ASLD and ADOT) along the I-40 Corridor.

It is anticipated the Regional Water Supply Project could be built in three segments at a total cost of \$575 million. Flagstaff has initiated outreach as part of the Phase III Feasibility Study to the U.S. Bureau of Reclamation to engage the Navajo Nation, Hopi Tribe, Arizona State Land Department and other stakeholders in a development planning process for the Regional Water Supply Project. Flagstaff has committed to cost-share an allocation of federal funding required to develop the Regional Water Supply Project. Funding for the Regional Water Supply Project will benefit the water supply of key parties in the region.

In conclusion, we ask that the Committee add the critically important Red Gap Regional Water Supply Project to H.R. 8940 during the mark-up of this legislation to bring needed water to key parties in the region. To be clear, this request from the City is not in competition with funding among the Tribe's water supply projects, and should not be construed as such. The Tribe's water supply projects are needed and long-overdue. Rather, the City's request is for funding a complimentary Regional Water Supply Project that will deliver real and supplemental water supplies needed in the region.

The City strongly supports our Tribal Partners and other parties in a unified effort to move H.R. 8940 forward as it will finally resolve long, drawn out and expensive litigation while providing

important solutions that will secure our Tribal Partners and cities in Northeastern Arizona with indispensable future water supplies.

As Mayor of Flagstaff, I thank you for the opportunity to provide this testimony in support of this legislation.