

**TESTIMONY OF TANYA LEWIS, CHAIRWOMAN,
YAVAPAI-APACHE NATION
BEFORE THE
HOUSE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON WATER, WILDLIFE & FISHERIES
JULY 23, 2024**

Good afternoon, my name is Tanya Lewis, I am the Chairwoman of the Yavapai-Apache Nation. I want to thank the Subcommittee for the opportunity to testify and thank my fellow Tribal leaders who are here today and wish them well as they work to resolve their critical water issues. The Yavapai-Apache Nation strongly supports H.R. 8949, the Yavapai-Apache Nation Water Rights Settlement Act of 2024 (Settlement) and the *Tú ńłjíníchoh* Water Infrastructure Project that will be developed as part of this Settlement.

Our Reservation, known as the “Yavapai-Apache Reservation” (Reservation), is located in central Arizona’s Verde Valley. Because of the failed Indian policies of the United States during the mid to late 1800’s and other historic disparities, our Reservation lands are non-contiguous and comprised of five different “Districts” (the Middle Verde District, the Camp Verde District, the Clarkdale District, the Rimrock District, and the Montezuma District).

The Verde River, which is one of the last remaining perennial rivers in Arizona, runs through the heart of the Middle Verde and Camp Verde Districts of our Reservation. The Settlement has taken many years to accomplish, and each generation of leadership for the Yavapai-Apache Nation (Nation) has played a role in the Nation finally reaching a comprehensive settlement to confirm our water rights and help protect the health and vitality of the Verde River.

To the *Yavepé* (Yavapai) the Verde River is known as *Hatayakehela* (“big river”), and to the *Dilzhé’é* (Apache – being one of the numerous subgroups or bands comprising the “Western Apache”) the Verde River is known as *Tú ńłjíníchoh* (“big water flowing”). The Verde River and its sources are within the aboriginal homeland of the *Yavepé* and *Dilzhé’é* people, which, as discussed in greater detail below, spans more than 16,000 square miles across what is now central and western Arizona.

The Verde River and its associated groundwater resources are the primary sources of water used by the Nation for all municipal, commercial, industrial, agricultural, and recreational uses. We also have significant cultural and religious interests in the Verde River Watershed and in the many springs and other water sources that supply the Verde River and its tributaries. These water sources support the Bald Eagle and other wildlife that are important to the culture and lifeways of the Nation. The Verde River’s water sources, and the trees and plants that are nurtured by the river, all play an essential role in the cultural and religious practices of the Yavapai and Apache People – practices that help preserve the identity and health of the Nation to this day.

It is also important to note that the Verde River and its perennial tributaries, like Oak Creek, Wet Beaver Creek, and West Clear Creek, provide diverse public recreational

opportunities, including boating, kayaking, hunting, fishing, birding, hiking, picnicking, and photography. Because of this, the Verde River is a *major economic driver* for the rural communities located throughout the watershed, including the Yavapai-Apache Nation and our neighboring communities in the Verde Valley. In short, the continued reliable flow and health of the Verde River and its tributaries (and the groundwater sources that sustain these systems) are crucial to the Nation's present and future livelihood in its permanent Tribal homeland under *Winters v. United States*, 207 U.S. 564, 565, 28 S. Ct. 207, 208 (1908).

The Nation's Settlement Agreement will finally and fully resolve a host of critical water issues for the Nation by, among other things, providing water certainty for the Nation and our neighbors in the watershed and avoid further costly litigation in Arizona's Gila River Adjudication Proceedings over the Nation's water rights and those of the United States on our behalf. It will also support the capture, treatment, and reuse of effluent for use on the Nation's farming operation in lieu of groundwater pumping and provide for the importation of a *renewable water supply* from the C.C. Cragin Dam and Reservoir that will further limit groundwater pumping that threatens the longevity of local aquifers and flows in the Verde River.

To understand the importance of the Settlement, it is important to understand the Nation's history and the longstanding relationship that the *Yavepé* and *Dilzhé'é* people have to the Verde River and the Verde Valley. I will briefly review our history next in my testimony. After this, I will provide a summary of the Settlement Agreement and the H.R. 8949.

HISTORY OF THE YAVAPAI-APACHE NATION

The Yavapai-Apache Nation of the Camp Verde Indian Reservation is a federally recognized Indian Tribe pursuant to the Apache Treaty of 1852, 10 Stat. 979 and Section 16 of the Indian Reorganization Act of 1934, P.L. 73-383, 48 Stat. 984 *et seq.* Our first constitution was approved in 1937 and was most recently amended in April 1992. The Nation is comprised of two distinct cultures, the *Yavepé* people and the *Dilzhé'é* people.

Our aboriginal homeland spans more than 16,000 square miles across central Arizona. A map of our territory is attached to this testimony, and we ask that it be included in the record. Following the 1848 Treaty of Guadalupe Hidalgo, in which Mexico ceded the lands that comprise most of the Southwestern United States, our territory became part of the United States. Notwithstanding this, our lifeways and culture were left largely unaffected by the westward expansion of the United States until 1863, when gold was discovered in our homeland. This discovery led to a rush of people claiming our land, using our water, and killing the game our people needed to survive. The armed conflict between our people and the occupiers became part of a much larger conflict referred to by historians as the "Apache Wars" which lasted until 1890.

Intent on bringing an end to the conflict, the United States established a series of military camps across Arizona as well as reservations where a federal policy of concentrating and confining our people within a defined territory was imposed. President Grant established the Camp Verde Indian Reservation in 1871 along with the army fort known as Camp Verde. Our people were told that our homeland would now be reduced to the boundaries of the new reservation. Because the Verde River has always been necessary to sustain our people, the 1871

Camp Verde Reservation was purposefully located along the Verde River. The Camp Verde Reservation boundaries were established to encompass forty-five miles up and down the Verde River and ten miles on each side of the Verde River, totaling 900 square miles. This left our people with 6% of what had been our aboriginal territory since the beginning of time. Yet, this 900 square mile Reservation was to be our new permanent homeland, where, we were told, we would remain undisturbed by non-Indian settlers. On this supposed “permanent” homeland, we took advantage of its proximity to the Verde River to become productive and profitable farmers. In fact, an irrigation ditch we hand dug in 1874 is still in operation today as the Cottonwood Ditch.

Unfortunately, as was all too often the case throughout Indian Country in 19th century America, our Nation’s prosperity would not be allowed to continue. Due to pressure to open the Camp Verde Reservation to settlement by non-Indian farmers, ranchers, and miners, and from profiteers who wanted to quash the competition from our farms and ranches, the United States was urged to open up our remaining lands to non-Indian settlement by removing our people from the Camp Verde Reservation to what amounted to a life of imprisonment on the San Carlos Apache Reservation— approximately 180 miles away in southeastern Arizona.

Beginning on February 27, 1875, without consent or consideration, 1,476 of our people, young and old, pregnant, and infirm, were force marched by federal troops as prisoners of war 180 miles over the Mazatzal Mountains, including several stream crossings at high water in the dead of winter. When efforts were made to try and persuade the Special Commissioner of Indian Affairs in charge of our removal to take a less treacherous route around the mountains by means of wagons and horses, he responded by saying “They are Indians, let the beggars walk.” Corbusier, William T, *Verde to San Carlos*, p. 267 (1971). More than 100 of our people died enroute to San Carlos due to exposure, trauma, childbirth, and drowning. Today, we solemnly commemorate this date every year as Exodus Day, in honor of our ancestors and as a reminder of the suffering they endured on that two-month march. On April 23, 1875, President Grant terminated the Camp Verde Reservation and returned it to the public domain. This allowed non-Indians to build their lives and communities using the land, water, and other resources that were once guaranteed to my people by the United States.

After the surrender of Geronimo’s band of Chiricahua Apache in 1886, the Army began issuing permits allowing our people to work off the San Carlos Reservation and gather traditional foods in our original territory. By 1890, the Army stopped issuing permits and my people simply started to migrate back to our original homelands. Once given this opportunity, the *Yavepé* and *Dilzhé’é* returned home to the Verde Valley on foot. In many cases it took years to make their way home. Along the way, many of my ancestors worked on the Federal dams, like Roosevelt Dam, which were constructed on the Verde and Salt Rivers to supply water to what is now metropolitan Phoenix. These dams are owned by the United States and operated today by the Salt River Project, a settling party in our Settlement.

Once we returned home, we worked as cowboys, construction workers, day laborers, and domestic workers. Our people returned to no established reservation or land base of any kind. All of our lands had been taken as a result of our 1871 forced removal to San Carlos by the United States. But our ancestors still found a way to survive in the communities that had sprung up in

the Verde Valley on our former Reservation. With the assistance and advocacy of our Indian Agent, Dr. Taylor Gabbard, we were eventually able in 1909 to secure appropriations from Congress and purchase back 18.25 acres of land along the Verde River.

Since that time we have been able to restore additional lands to our Reservation and today, our Reservation totals 1,810 acres - just 0.3% of our former 1871 Camp Verde Reservation and 0.0017% of our original territory. Because of the United States' forced removal of our people from the Verde Valley and the termination of the 1871 Camp Verde Reservation, we do not have the benefit of living on a unified and large reservation. Instead, our Tribal members live throughout the Verde Valley, both on and off our current Reservation lands. And despite all the hardship and adversity, today, the Yavapai-Apache Nation is one of the largest employers in the Verde Valley and we are a young and growing population.

We who today put forward this Settlement Agreement for approval by the United States stand on the shoulders of our forebears who endured so much just so that we could return to the homeland on which our Creator placed us. More than 36 percent of the Nation's Tribal members are under the age of 18 and our waiting list for Tribal housing, now at more than 150 families, only continues to grow. As a result, it is critical that the Nation secure the necessary land and water resources we need to continue our cultural and religious practices and provide the jobs, housing, social services, and sustainable local economy that are necessary attributes of a permanent tribal homeland.

This is why this settlement is so vitally important to the Nation. It will secure a renewable imported supply of water for our Nation, which is necessary for our families and our businesses to thrive. With this renewable water supply, we can limit future groundwater pumping that depletes flows in the Verde River and we can produce new sources of reclaimed water to use in our farming operations to offset current pumping. Finally, the Settlement will ensure that lands we now own in fee surrounding our Reservation will be taken into trust and made a permanent part of our Reservation homeland.

For our Nation to thrive, we need our people to live in our homelands, and for that to happen, we need to have the water to meet their current and future needs. In short, this Settlement Agreement and the legislation confirming it will finally secure for our people the permanent home and prosperity that the 1852 Apache Treaty is supposed to have guaranteed to us.

HISTORY OF SETTLEMENT NEGOTIATIONS

The journey to reach today has been long and arduous for our Nation. I want to acknowledge all of the Nation's leaders, many of whom have now passed on, who worked so hard and with such unwavering commitment over the years on this Settlement, so that I could be here testifying before you today. Over forty years ago, the Nation, and the United States on the Nation's behalf, filed claims for federal reserved and other water rights under the *Winters Doctrine* to the Verde River and its systems and sources in Arizona's General Stream Adjudication, known as the "Gila River Adjudication." Since this time, the Nation has been an active litigant in the Gila River Adjudication, though the Adjudication has yet to quantify our water rights. While the Gila River Adjudication has dragged on, upstream development and

water diversions have continued to deplete the water sources that support the Verde River, threatening the Nation's water rights and the natural and cultural resources the Nation relies upon in the Verde River. As a result, the Nation has made securing our water rights and protecting flows in the Verde River with the cooperation of our neighboring communities a top priority.

In 2008, the Secretary of the Interior's Indian Water Rights Office (SIWRO) appointed a Water Rights Assessment Team to the Nation. In 2011, the SIWRO appointed a Federal Indian Water Rights Negotiation Team. Since this time, we have been engaged in water negotiations with the federal government, our local communities, the Salt River Project, Central Arizona Project, the State of Arizona, and other key stakeholders.

In July 2023, after several years of intense analysis conducted with the assistance of the Bureau of Reclamation's Value Engineering Study Team, the Nation and our settling partners agreed that the best way to secure a renewable water supply for the current and future needs of our people and to protect the Verde River was to develop a water delivery project that will import a renewable water supply from outside the watershed. As developed by the Bureau of Reclamation, this project would deliver surface water from the existing C.C. Cragin Dam and Reservoir that is owned by the Bureau of Reclamation and operated by Salt River Project to the Yavapai-Apache Reservation.

To this end, the Nation, our Federal Team, the State of Arizona, Salt River Project, Central Arizona Project, and our neighboring communities (the City of Cottonwood, Town of Clarkdale, and Town of Camp Verde) have worked tirelessly to finalize the Settlement Agreement. This work culminated in the Nation's Tribal Council formally approving the Yavapai-Apache Nation Water Rights Settlement Agreement on June 26, 2024. The formal approval processes for each of the State parties are underway, with final approval expected by late summer. We would like to enter into the record the letter from the parties' attorneys expressing support for the Settlement Agreement and their commitment to recommend formal approval of the Settlement to their respective clients. We also would like to thank the State of Arizona and the Salt River Project SRP for their written testimony in support of this legislation.

ELEMENTS OF THE SETTLEMENT

Let me now summarize the principal elements of the comprehensive water rights Settlement Agreement ratified by H.R. 8949.

- The Settlement Agreement is a comprehensive settlement of all of the outstanding claims for water rights for the Yavapai-Apache Nation and the United States on our behalf. Importantly, as part of the Settlement Agreement and the legislation, the Nation will waive its outstanding claims for water rights and damages associated with water rights in the Gila River Adjudication against the United States and all State parties, bringing finality and certainty to all the water users in the Verde Valley Watershed.
- Under the Settlement Agreement, the three Verde Valley communities located on the Verde River (the City of Cottonwood, the Town of Camp Verde, and the Town

of Clarkdale) have agreed to limit their groundwater pumping and to no longer develop wells in close proximity to the Verde River, thereby protecting the Verde River from depletions caused by these wells.

- Under the Settlement Agreement, the Nation will have confirmed and decreed water rights to:
 - The delivery of 3,410 AFY of surface water from the C.C. Cragin Dam and Reservoir through the Cragin-Verde Pipeline;
 - The delivery, by exchange, of the Nation's 1,200 AFA of high priority Central Arizona Project or "CAP" water from the C.C. Cragin Dam and Reservoir through the Cragin-Verde Pipeline;
 - The diversion of 1,593 AFY of historic Verde River water rights for irrigation uses by the Nation on its farm;
 - The diversion of 684 AFY of groundwater to meet certain existing water needs on the Reservation and rights to additional pumping (away from the Verde River) if needed as a "back up" supply in years when C.C. Cragin Reservoir water is not fully available; and
 - The right to capture, treat, and reuse all effluent produced by the Nation, which will be treated in a new modern wastewater reclamation facility and integrated into the Nation's farming operation to further reduce diversions from the Verde River.

- H.R. 8949 would authorize and fund construction of the Cragin-Verde Pipeline and other infrastructure to deliver surface water from the C.C. Cragin Reservoir Dam and Reservoir located on the Mogollon Rim, to the Yavapai-Apache Nation for treatment in a modern surface water drinking plant and distribution throughout the Reservation. The project is called the "*Tú ńłjńńichoh* Water Infrastructure Project."

- The Settlement Agreement and H.R. 8949 provides a pathway for local Verde Valley communities to also secure a renewable water supply for their citizens, including for many of our Tribal members who live in these communities. This will be accomplished by allowing the *Tú ńłjńńichoh* Water Infrastructure Project to be sized to include delivery of C.C. Cragin water to these local communities. This is a critical component of the legislation, as this would offset current and future groundwater pumping in the Verde Valley by these communities. By reducing groundwater pumping, the Nation's instream flow right in the Verde River, which is a trust resource under the Settlement Agreement and the Act, will be protected. Moreover, because several of these local communities also provide drinking water to our Reservation lands (at the Camp Verde, Middle Verde, and Clarkdale Districts), providing these communities with access to a renewable water supply

from the C.C. Cragin Dam and Reservoir under the Settlement will help secure a renewable water supply for the Nation.

- As part of the Settlement Agreement and with the funds received under H.R. 8949, the Nation will replace its long-outdated wastewater treatment system of facultative sewer lagoons with a modern reclamation facility that will allow the Nation to reclaim its wastewater for use in its farming operation. This reclaimed water will allow the Nation to offset current groundwater pumping from wells near the Verde River and to support future irrigation with renewable water supplies in lieu of new groundwater pumping.
- H.R. 8949 would authorize a land exchange between the Forest Service and the Nation. This land exchange is currently underway between the Nation and the Forest Service under the normal administrative process administered by the Forest Service, and it is expected to be completed in the fall of 2024. However, because the exchanged lands are integral to the Settlement Agreement, we have included authorization for the land exchange in this legislation. If the Nation and Forest Service complete the land exchange (as expected) this fall, as we expect to do, we will not need Congress to authorize the exchange.
- H.R. 8949 directs the Secretary of the Interior to take certain lands into trust that the Nation now holds in fee, including the land exchange lands. This land will be made part of the Nation's Reservation.
- Finally, the legislation directs the Forest Service to use existing authorities to undertake a land transfer to the Town of Camp Verde for public safety purposes – including the development of public safety facility to meet the needs of the Town, the Nation, and those traveling along Interstate 17 in the Verde Valley.

CONCLUSION

The passage of H.R. 8949 to ratify the Yavapai-Apache Nation's Water Rights Settlement Agreement is essential if our Nation is to finally attain a secure water future and a permanent tribal homeland for the *Yavepé* and *Dilzhé'é* people. In this time of persistent drought and aridification in Arizona, we must take concrete and generational action to secure the long-term needs of our communities. And, like our counterparts in metropolitan Phoenix who have long had the benefit of a diverse water supply due to historic investments by the United States in federal reclamation projects like Bartlett Dam on the Verde River, for the Nation to meet the future water needs of our people, we must have access to renewable water resources and modern water infrastructure.

The *Yavepé* and *Dilzhé'é* people have lived in the Verde Valley since the beginning of time, and it is now time for the Nation, with the assistance of our trustee the United States, to build the water infrastructure needed to ensure that the Nation can continue to live and thrive in the Verde Valley as was guaranteed to us in our Treaty with the United States.

On behalf of the Yavapai-Apache Nation, thank you for the opportunity to testify before you today. I will be pleased to answer any questions you may have, and our Nation will help in any way it can to secure enactment of this critical legislation.