

TAOS



PUEBLO

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**TESTIMONY OF FRED L. ROMERO,
GOVERNOR OF THE PUEBLO OF TAOS
BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON WATER, WILDLIFE & FISHERIES
REGARDING H.R. 6599
THE "TECHNICAL CORRECTIONS TO THE NORTHWESTERN NEW MEXICO
RURAL WATER PROJECTS ACT, TAOS PUEBLO
INDIAN WATER RIGHTS SETTLEMENT ACT, AND AAMODT
LITIGATION SETTLEMENT ACT"**

JULY 23, 2024

Good afternoon Chairman Bentz, Ranking Member Huffman and members of the Committee. My name is Fred Romero and I am the Governor of Taos Pueblo.

I am here today to discuss H.R. 6599, the "Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act". My testimony addresses Section 3, entitled "Authorization of Payment of Adjusted Interest on the Taos Pueblo Water Development Fund," and Section 5(a) entitled "Section 509 of the Claims Resolution Act of 2010."

1. Taos Pueblo

Taos Pueblo, *Tau-Tah*, the place of the Red Willows, is located in North-Central New Mexico. Our people, *Tauh tah Dainah*, have lived in the Taos Valley since time immemorial, and as the first users of the Valley's water resources, constructed irrigation systems still in use today.

We have over 2,700 enrolled members. Our land base is approximately 111,372 acres, including farmlands and range lands in the Taos Valley and mountains with peaks reaching nearly 13,000 feet. Our Pueblo lands include a culturally important and hydrologically unique wetland that supports herbs, plants, clays, bison and other wildlife, and waterfowl essential to our traditional and ceremonial way of life. This wetland is known as the Taos Pueblo Buffalo Pasture.

Taos Pueblo is a National Historic Landmark and was designated a World Heritage Site in recognition of our enduring living culture.

2. The Taos Pueblo Indian Water Rights Settlement Act, Title V of the Claims Resolution Act of 2010 (P.L. 111-291)

In 2010, Congress enacted the Claims Resolution Act (P.L. 111-291), including Title V, the Taos Pueblo Indian Water Rights Settlement Act ("Settlement Act"). The Settlement Act recognized Taos Pueblo's extensive water rights and authorized and approved the settlement negotiated among Taos Pueblo and other parties to the adjudication of the waters of the Taos Valley. The adjudication, entitled *State of New Mexico ex rel. State Engineer v. Abeyta* and *State of New Mexico ex rel State Engineer v. Arrellano*, was filed in the United States District Court for the District of New Mexico in 1969. The adjudication includes three tributaries of the Rio Grande in northern New Mexico, namely the Rio Pueblo, Rio Lucero and Rio Hondo, or in our Tiwa language, the *Tuatah Bah-ah-nah*, *Bah bah til Bah ah nah*, and *Too-hoo Bah ah nah*. Our Blue Lake Wilderness Area is a major part of the watershed for the streams in the adjudication.

The settlement was the product of decades of litigation and negotiation. It ends centuries of disputes between the Pueblo and our non-Indian neighbors. The Settlement Act authorized \$36 million in federal funding, with a State of New Mexico cost contribution in addition to this amount, for a number of "Mutual-Benefit Projects" tailored to resolve complicated disputes over specific water issues.

Section 505(a) of the Settlement Act also established the Taos Pueblo Water Development Fund to pay or reimburse costs incurred by the the Pueblo for:

- (1) acquiring water rights;
- (2) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment or delivery infrastructure, on-farm improvements, or wastewater infrastructure;
- (3) restoring, preserving and protecting the Buffalo Pasture, including planning, permitting, designing, engineering, constructing, operating, managing and replacing the Buffalo Pasture Recharge Project;
- (4) administering the Pueblo's water rights acquisition program and water management and administration system; and
- (5) watershed protection and enhancement, support of agriculture, water-related Pueblo community welfare and economic development, and costs related to the negotiation, authorization, and implementation of the Settlement Agreement.

The Settlement Act authorized \$50 million in a mandatory appropriation to the Taos Pueblo Water Development Fund and authorized appropriations of an additional \$38 million, as adjusted

by such amounts as may be required due to increases since April 1, 2007, in construction costs, as indicated by engineering cost indices.

The settlement became final and enforceable on October 7, 2016 when the Secretary of the Interior published her finding in the Federal Register that all conditions precedent to enforceability had been fulfilled.

3. Pre-Enforcement Date Investment Prohibition

Typically, Federal Indian water rights settlement legislation authorizes Tribal settlement funds to be invested during the period of time from when the funds are deposited until they can be utilized on the settlement enforcement date. Yet our Settlement Act, and other affected Indian water rights settlement legislation enacted in 2009 and 2010, was unusual in that its directive to the Secretary to invest the Taos Pueblo Water Development Fund specified “*upon the Enforcement Date,*” instead of upon the deposit date. Section 505(c), **Title V of the Claims Resolution Act of 2010** (P.L. 111-291). The result was the loss of millions of dollars in potential investment earning that could otherwise have accrued during the nearly six years between enactment and the Enforcement Date. But for the words “upon the Enforcement Date,” those six years worth of investment earnings could have been available for implementation of our settlement.

4. Sections 3 and 5(a) of H.R. 6599, “Authorization of Payment of Adjusted Interest on the Taos Pueblo Water Development Fund”

Section 3 of H.R. 6599 provides a technical correction to recover these lost investment earnings through an authorization to appropriate \$7,794,297.52 to the Taos Pueblo Water Development Fund. This technical correction will facilitate implementation of the settlement and will have substantial, tangible benefits to Taos Pueblo. The appropriations authorized by the technical correction will be subject to the authorized uses specified in Section 505(a) of the Settlement Act, such as water rights management and administration, surface water irrigation infrastructure improvements, and restoration of the Taos Pueblo Buffalo Pasture wetland.

Section 5(a) of H.R. 6599 makes clear that nothing in the legislation affects the previous satisfaction of the conditions precedent in Section 509(f)(2) of the Settlement Act, or affects the validity of the Secretarial finding published in the Federal Register on October 7, 2016, pursuant to Section 509(f)(1) of the Settlement Act, that such conditions precedent were fully satisfied.

Taos Pueblo is in full support of this legislation. We believe the Department of Interior supports Section 3 of H.R. 6599 based on our conversations with them during the development of this bill and in light of testimony for the Department of the Interior before the Senate Committee on Indian Affairs in support of a similar technical amendment for the Shoshone-Paiute Tribes’ settlement legislation. In that testimony, Assistant Secretary of Indian Affairs Bryan Newland noted that “prohibiting investment until an enforceability date is reached is not common in Indian water rights settlements,” and “as a matter of equity, [the Department] would support

similar legislation to resolve this same issue in the four other Indian water rights settlements approved by Congress in 2009 and 2010.” Our Taos Pueblo settlement is one of the settlements.¹

5. Conclusion

H.R. 6599 would correct an injustice in our original water settlement legislation and would provide funding to help put our water rights to use for the Taos Pueblo people. We ask that you support this technical correction amendment and move the bill expeditiously.

Thank you for the opportunity to testify. I’m happy to answer any questions from the Committee.

¹ See S. Rept. 118-80 - TECHNICAL CORRECTION TO THE SHOSHONE-PAIUTE TRIBES OF THE DUCK VALLEY RESERVATION WATER RIGHTS SETTLEMENT ACT OF 2023, S.Rept.118-80, 118th Cong. (2024), at 3, notes 7 and 8, <https://www.congress.gov/congressional-report/118th-congress/senate-report/80/1>.